

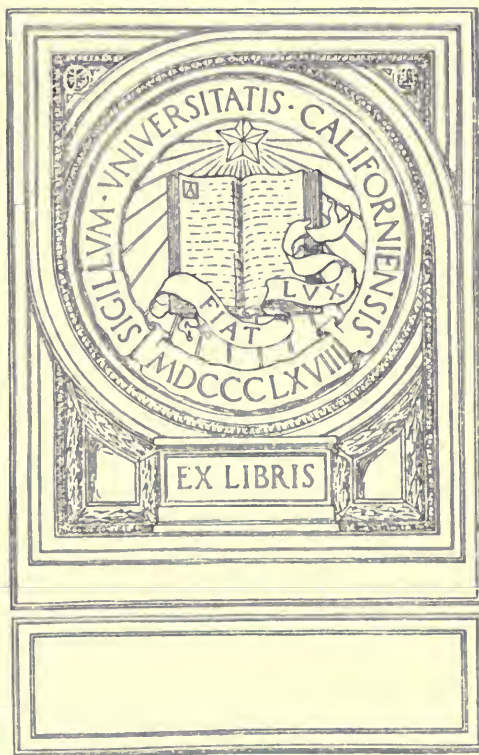
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PRESENT STATE
OF THE
BRITISH CONSTITUTION,
HISTORICALLY ILLUSTRATED.

BY BRITANNICUS.

————— Servetur ad imum
Quatis ab incæpto processerit, et sibi constet.

HOR.

LONDON:

PRINTED FOR LONGMAN, HURST, REES AND ORME,
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PRESENT STATE

OF THE

BRITISH CONSTITUTION.

AMONG the numerous blessings which these islands possess, and which Old England in a more particular manner may call her own, none is a more frequent subject of exaltation, than our glorious political constitution. Here every Englishman is confident that he stands upon a basis that cannot be shaken. Should he find himself obliged to relinquish to some foreign rival the preference of climate or soil:—should Italy carry away the palm of pre-eminence in the fine arts:—should France successfully contest the honour of superior inge-

nuity and invention ; or Germany be allowed to contend for greater philosophical profundity, still it is supposed, that in laws and government we have no rival in Europe ; nor much to apprehend when placed in the scales with our descendants in the Transatlantic hemisphere. As in the governments of our neighbours on the Continent there is little now to be found that can really be called free, or that furnishes any permanent security for the independence of the citizen ; so it is supposed, in England at least, that whatever is valuable, in the constitution of America, has been borrowed from the political institutions of this country ; and that wherever there is a deviation, there is no less a falling off from the immortal archetype.

It is by no means my wish to damp this ardent affection for the constitution of Britain. Long may every British bosom glow with the love, nay with the preference of the soil, the productions, the arts and literature, as well as the laws and government, of these happy islands ! Patriotism, one of

the most virtuous affections of the human heart, is cherished by such a preference, and without it must necessarily become languid and inert. The man that ceases to prefer the institutions of his own country to those of any other ; or that feels no peculiar affection for his own laws and his own government, is ripe for revolution, and will not scruple to wade through all its convulsive horrors, in order to obtain that melioration of his circumstances for which he feels an ardent desire.

Nature has kindly guarded against this dangerous and excessive love of innovation by imbuing the human mind with a wonderful attachment to the peculiar clime which gave it birth. Nothing at first sight appears more astonishing to the philosophical eye, than the partiality with which the savage views his native wilderness, and the fondness with which he returns to it, after having been initiated into the pleasures and refinements of polished society. Many of the natives of newly discovered countries have been brought to Europe, and have been made ac-

quainted with all the conveniencies and luxuries which European arts and commerce have produced ; but none of them has ever shewn the least reluctance to renounce them all, and to return to the hardships and privations of their native wilds. So predominant is the love of country over the love of ease !—So powerful is that happy partiality by which the native of one region is enabled to view with indifference the boasted superiority possessed by the inhabitant of a more favoured clime ; and to rest contented with that portion of felicity which Providence has allotted him, and which he considers as permanently attached to his native soil.

*Nescio quâ natale solum dulcedine captos
Ducit, et immemores non sinit esse sui.*

OVID. *Epist. ex Pont. l. 1. Ep. 3.*

But it is important to distinguish between that preference which arises from the natural prejudices of the human heart ; and that which is founded upon the investigations of reason. If the object of our affections be not only lovely in our own eyes, but have

merits also which are admitted by all the world, it will become doubly endeared to us, by exciting not only our attachment, but our esteem. We shall prize it much more highly, when we are aware that our predilection cannot be called a fond partiality, but that it is a reasonable preference. Such, I trust, is the predilection felt by Britons for the constitution of their country. Their love for that constitution is, I hope, founded rather upon its intrinsic excellence, than upon the circumstance of its being British ; and it shall be by no means my endeavour to diminish that love, but to point out upon what basis it properly rests. If a lover should value his mistress for qualities which she does not possess ; if he should prize her for her wit, while her chief merit consists in her good humour, his attachment is in great danger of being upset by some untoward accident, and can hardly be expected to be permanent.

Fortunately, the good qualities of the British constitution have not been kept in a mysterious concealment ; they have been

narrowly scrutinized ; and have formed the theme of more than one elaborate treatise. The British constitution has been analysed historically, philosophically, and politically ; and its praises have been sounded forth, not only by those who have the good fortune to live under its shelter, but by those who can scarcely be suspected of any undue partiality in its favour. It has received the panegyric not only of Blackstone and Selden, but also of Montesquieu and Helvetius ; and the rivalry between France and England has not prevented enlightened Frenchmen from giving the due tribute of encomium to what is excellent in English laws and English government.

It may therefore be thought, that the estimate of the British Constitution might now be pretty accurately formed ; and that there can be no occasion for any new lucubrations concerning its peculiar excellencies or defects. But let it be observed that the British Constitution has been progressive ; that it has advanced from very small beginnings to its present state of maturity and

vigour; that in its first form it was rude and imperfect, and has owed its improvements to the succession of ages, and to those casualties which the accidental chain of events produces, and which the efforts of enterprising individuals direct to a favorable issue. Its principles, therefore, have not, till of late years been, for any long period, the same; the spirit of its institutions has been continually varying, and has always taken a tincture from the spirit of the times. It has in a great measure suited itself to the peculiar attachments, wishes, and pursuits of every succeeding age; so that those regulations which were considered as well adapted to a rude and warlike people, have been made to give way to a policy better fitted to a period of refinement; and the institutions of barbarism have been gradually mellowed into a legislation suited to a high advancement in arts, commerce, and literature.

It is therefore an interesting inquiry to ascertain the state of the British constitution at any particular period of its history; and

if there be any thing peculiar to its present state, surely it is highly important that the peculiarity should be pointed out. It is, indeed the common doctrine, that at the memorable period of the Revolution, the British Constitution was finally matured; and has since continued in the enjoyment of that vigour which it then attained. It was then, we are told, that the various heterogeneous principles of which it is composed were accurately balanced and defined; and its peculiar limits assigned to each. Then were the just boundaries set to the royal prerogative; then was the hereditary right of kings set upon its proper basis; and then too were the rights of the people avowed and ascertained. Then was that happy compound of democracy, aristocracy, and monarchy finally adjusted, which ancient politicians had declared to be the perfection of political wisdom, but which was rather ardently to be desired, than expected ever to take place*.

* “ *Cunctas nationes,*” says Tacitus, “ *aut Reges, aut Primores aut Populus rexerunt, dilecta ex his et*

I am ready to grant that it is to the period of the Revolution that we are to look for the British Constitution as it now stands in *theory*. In the declaration of rights, and the various parliamentary provisions of that period we find the great written code of our political law, and the regulations by which our legislators and executive magistrates ought principally to be governed. But it is allowed that there is a considerable difference between the British Constitution, as it stands in *theory*, and as it stands in *practice*. The House of Commons does not now exactly represent the poorer orders of the people, nor is it greatly subordinate in dignity and rank to the House of Peers. The king does not contend with his parliament concerning the extent of his royal prerogative; and avowedly exercises but a small part of that which the law has conferred upon him. He may, by law, if he pleases, refuse his assent to any act of parliament; but this has

consociata reipublicæ forma laudari facilius quam evenire, aut si eveniat, non diuturna esse potest.—

Ann. I.

not been done since the days of King William, and it is now found that influence is a more convenient engine than prerogative for directing the decisions of our legislators. The king now exercises his legislative authority, not in the form of a royal *veto*, or *soit fait comme il est desirè**; but through the channel of his ministers, in both Houses of Parliament, a mode, which though it is not recognised in the theory of our Constitution, is sufficiently known, and even plainly avowed in practice.

This diversity between the theory and present practice of the British Constitution, has been noticed by several eminent writers. Judge Blackstone informed us many years ago, that “The stern commands of prerogative have yielded to the milder voice of influence: the slavish and exploded doctrine of non-resistance, has given way to a military establishment by law; and to the disuse of parliaments has succeeded a parliamentary trust of an immense perpetual reve-

* The words in which the royal assent is given to an act of parliament.

nue." He very plainly insinuates, that the power of the crown was in danger of extending beyond its just boundaries, in consequence of the immense increase of patronage, which the multiplication of tax-gatherers, stamp-commissioners, loan-contractors, and other appendages of our national debt have generated; not to speak of the power conferred by a numerous standing army, and the influence arising from the appointment of all the valuable offices in the kingdom, civil, military, and ecclesiastical.

"When," says this able lawyer, "by the free operation of the sinking fund, our national debts shall be lessened, when the posture of foreign affairs, and the universal introduction of a well planned and national militia will suffer our formidable army to be thinned and regulated; and, when (in consequence of all) our taxes shall be gradually reduced; this adventitious power of the crown will slowly and imperceptibly diminish, as it slowly and imperceptibly arose; but till that shall happen, it will be our

especial duty, as good subjects, and good Englishmen, to reverence the crown, and yet guard against corrupt and servile influence from those who are intrusted with its authority ; to be loyal, yet free ; obedient, and yet independent." (Comm. b. i. c. 8.)

Had the preservation of our liberties depended upon the events here indicated, they would at present be, indeed, in a desperate condition. When Blackstone wrote, our national debt did not exceed one hundred and forty millions ; and our army, even on the war establishment, did not amount to sixty thousand men. At present we have tripled the national debt, and increased our regular army in fully the same proportion. Our navy has been augmented in at least an equal degree, and a new source of military patronage has arisen to the crown in the appointment of officers of volunteers. If then the patriotism of Blackstone was alarmed by the national debt and military force of his time, what would he have felt on contemplating the burthens of the present period ? It was voted many years ago,

by the House of Commons, " That the influence of the crown has increased, was increasing, and ought to be diminished ; yet, according to this detail, it has ever since continued rapidly to increase, and of its augmentation, we can at present see no end.

Are we then to conclude the balance of power, the so much boasted excellence of the British Constitution no longer exists ? That the influence of the crown has by its gradual extension, irreparably encroached upon the independence of the people, and that absolute monarchy will prove, as was predicted by Mr. Hume, the *euthanasia*, or gentle death of our political freedom ? I am inclined to argue a better fate to our liberties and laws. I cannot help entertaining the pleasing hopes, that there is a vigour and energy in the fabric of our government, which will provide a remedy against the growing symptoms of decay ; that though the body politic, is like every thing human, liable to injury and disorder, it has within itself a principle, which pro-

vides a cure for its most dangerous diseases ; and will, when it seems in most hazard of distraction, restore it to the full enjoyment of health and strength.

What this renovating principle is, it is the professed object of the present inquiry to ascertain. It is my earnest wish to point out to my fellow citizens upon what basis their political freedom actually rests ; to shew that there is a bulwark in our constitution, which is sufficient to resist the encroachments of prerogative and influence on the one hand, and of wild innovation and anarchy on the other ; and to rouse them as far as I am able, to the maintenance of this important safeguard of our independence, and the defence of this barrier against the destruction of what has so long been endeared to the heart of every Briton.

Let us know wherein the value of the British Constitution consists. Let us prize it for its real, and not for its supposed merits. Let us talk guardedly of the nice combination of monarchy, aristocracy, and democracy in our legislature, of the con-

troul of the Commons over the revenue, and the absolute independence of the judicial power; in short of that complex system of checks and preventives, which is so beautiful in theory, but which is so imperfectly felt in practice. Let us rather endeavour to ascertain in what the true practical safeguard of our independence consists, lest we should share the fate of Gulliver in his endeavour to impress the emperor of Brobdingnag, with the excellence of the laws and institutions of his native country. His gigantic majesty, after having closely questioned the British mariner, was pleased to say, “My little friend *Grildrig*, you have made a most admirable panegyric upon your country; but by what I have gathered from your own relation, and the answers I have with much pains wringed and extorted from you, I cannot but conclude the bulk of your natives to be the most pernicious race of little odious vermin that nature ever suffered to crawl upon the surface of the earth.”

In order to give a satisfactory answer to the question, which forms the subject of this inquiry, viz. "What is the present practical state of the British Constitution?" It will be necessary to examine, first, how the British Constitution stands at present in theory? and secondly, how does the theory differ from the present practice? In examining both those points, I shall be guided chiefly by the light of history; and shall endeavour concisely to trace the successive steps by which our Constitution was moulded into its present shape; and the changes which the exigencies of succeeding ages have introduced both into its forms, and into its spirit. If in the course of this sketch, I shall sometimes have occasion to traverse beaten ground; I trust I shall be pardoned for comprising the diffusive labours of others into a compass which will make them accessible even to the most cursory reader.

P A R T I.

Antiquarians usually ascend as high as the Saxon conquest for the introduction into our island of the first rudiments of that political system which now renders us the envy of the world. They wish to trace in the woods of Germany, from which the Saxons emigrated, the embrio of political liberty, and the rude sketch of that freedom of suffrage and representative legislature, which is characteristic of our constitution. They refer to Tacitus for a proof that the ancient Germans possessed a high spirit of independence, and that they were accustomed to be governed, not by the absolute will of a monarch, but by the decisions of a public assembly of the people, where every citizen had a right to give his suffrage, and where the prince was possessed of no undue controul *. But the love of system and na-

* The judicious Montesquieu has adopted this hypothesis. *“ Si l'on veut lire l'admirable ouvrage*

tional partiality, have in this instance somewhat biassed the decisions of political inquirers. The ancient Germans were doubtless a bold and independent race, and paid a very limited obedience to their chieftains and monarchs; but nearly the same thing may be said of every barbarous or half civilized tribe. The savages of North America are at present nearly in the same condition with the ancient Germans, as described by Tacitus. They consist of various detached tribes of warriors and huntsmen, highly jealous of their personal independence, and paying a very limited obedience to their respective chiefs. They have public assemblies of the elders, and experienced warriors, in which all matters of general concern are deliberately canvassed, and which can alone decide in all important questions that relate to the common good. The love of personal freedom is natural to man in the

De Tacite sur les mœurs des Germains, says he, "on verra que c'est d'eux que les Anglois ont tiré l'idée de leur gouvernement public, le beau système a été trouvé dans les bois" (L'Esprit des Loix, l. xi. c. 6.)

early stages of society ; but it is not to such a period that we can rationally look for a well digested political system, or laws judiciously calculated to preserve the rights of the people, and controul the power of the rulers.

Even admitting the excellence of certain institutions of the Germans, we can scarcely suppose that these were imported into England by the Saxon invaders. The Saxons were the most fierce and barbarous of all the German tribes. Scattered over the peninsula of Jutland, and along the neighbouring shores of the Baltick Sea, they were completely out of the reach of that civilization and improvement which every where attended the progress of the Roman arms. By their maritime situation, their attention was early directed to navigation, and they were accustomed to undertake piratical expeditions to several distant countries. Their conduct to the aborigines of Britain strongly marks the fierceness and treachery of their character. Invited into England as the allies and protectors of the

defenceless inhabitants against their more warlike neighbours in the north, they scrupled not to seize upon a country which they had undertaken to defend, and to turn their arms against a people with whom they had contracted a strict alliance.

It was not however, till after a violent struggle, that the Saxons were able to obtain a permanent footing in the territories of Britain. No less than a hundred and seventy years elapsed from their first invasion to the establishment of the Saxon Heptarchy, during which many battles were fought with various success. It cannot be supposed that a dominion thus painfully and unjustly obtained, would be very mildly exercised, or that equitable government and just laws would be characteristic of the early period of the Saxon sway. Indeed, if we were to credit some ancient annalists, the severity of the Saxons towards the conquered Britons exceeded the usual measure of savage fury. They would have us to believe, that the whole of the miserable natives suffered either death or captivity, or

were driven from their country into the mountains of Wales, or the wilds of Armórica in France ; but this picture of the sufferings of the Britons is doubtless much exaggerated ; and there is still sufficient evidence to prove that the greater part of the natives of Britain were permitted to remain in their paternal fields by their fierce conquerors ; and that the Saxons shewed some respect to the ancient customs and constitutions of the country in which they established themselves. It even appears that they permitted the christian religion to be exercised in many parts of the conquered territory ; although they did not abandon their own Pagan superstitions, till after they had been a considerable time in possession of their conquest.

During the same century in which the Saxons began the conquest of England, the other provinces of the Western Empire were invaded by a multitude of rude nations from the Northern and Eastern parts of the continent. A remarkable similarity of manners and customs prevailed among all these

barbarous tribes, and a no less remarkable resemblance was discernible in the governments which they severally established in the provinces that submitted to their arms. These governments were formed upon the model of the system known by the name of *feudal*; a system which differs very materially in its characteristic features from all the political contrivances of which we read either in ancient or modern history.

The great outlines of the feudal system, are thus briefly delineated by an eloquent historian. “The army which atchieved the conquest of a Roman province was not composed of soldiers, who could be compelled to serve, but of such as voluntarily followed the standard of their general. These conquered not for their leader, but for themselves; and being free in their own country, renounced not their liberty when they acquired new settlements. They did not exterminate the ancient inhabitants of the countries which they subdued, but seizing the greater part of their lands, they took their persons under protection. The diffi-

culty of maintaining a new conquest, as well as the danger of being attacked by new invaders, rendering it necessary to be always in a posture of defence, the form of government which they established was altogether military, and nearly resembled that to which they had been accustomed in their native country. Their general still continuing to be the head of the colony, part of the conquered lands were allotted to him; the remainder, under the name of *beneficia* or *fiefs*, was divided among his principal officers. As the common safety required that these officers should, upon all occasions, be ready to appear in arms for the common defence, and should continue obedient to their general, they bound themselves to take the field when called to serve him, with a number of men in proportion to the extent of their territory. These great officers again parcelled out their lands among their followers, and annexed the same condition to the grant. A feudal kingdom was properly the encampment of a great army; military ideas predominated, military sub-

ordination was established, and the possession of land was the pay which soldiers received for their personal service." (Robertson's Hist. of Scotland, b. i.)

The feudal governments though nominally monarchies, were in reality in their own original constitution almost pure aristocracies. The nobles, though acknowledging the superiority of the monarch, paid him but a very imperfect obedience. In their own domains, they were possessed of little less than absolute power; they could summon their vassals to arms at their pleasure; they could assume the judgment seat, and condemn or acquit them of whatever crimes were laid to their charge, and they could exact from them pecuniary aids, and every species of personal service. They were indeed themselves considered as the vassals of the monarch, and were bound to make certain contributions to his revenue, and to appear in arms with their followers in order to fight in defence of his rights. But their power often enabled them, and their rebellious dispositions prompted them, to contend

in the field with their king, instead of supporting his cause ; and the monarch sometimes found it more difficult to adjust the differences between rival barons, and to quell the hostilities which their contests excited in his dominions, than to check the encroachments of a foreign foe.

It would appear that during the heptarchy, and even for some time after, the Saxon conquests were all united under one monarch ; the proprietors of land, or *thanes*, were very numerous ; and that much of the land was held by the tenure called *allodial*, which conferred an absolute power of disposal on the proprietor, and exempted him from almost all feudal services, except the defence of the realm against foreign invaders. But before the Norman Conquest the number of allodial proprietors was greatly diminished, and some of the thanes had acquired great accession of power and influence ; in consequence of which the government of the country was become strictly feudal.

Since, according to the apt similitude of Robertson, a feudal government was pro-

perly the encampment of a great army ; so we may distinctly trace the influence of military forms, throughout its various institutions. As an army was divided and subdivided, almost without end, and had various officers, subordinate to each other in rank, appointed to command its different parts ; so in a feudal government, the people were distributed into a variety of greater and lesser divisions ; and superintendents of various dignity, and possessed of various authority, were stationed over them. Hence, the celebrated division of the subjects of the Saxon monarchs, into tythings, hundreds, and shires, or counties, which many historians have ascribed to Alfred ; but which in fact seems to have been coeval with the feudal system, and was only rendered more perfect and complete by that celebrated legislator.

A *tything*, was a collection of ten families, or rather of a village or small district, comprehending nearly that number. Over it there presided a head, or leader, called the *tything-man*, *decennarius*, or *head-borough*, who had the power of convening

his ward upon any emergency, and of deliberating with them concerning every thing that respected their common welfare. He was in some measure responsible for their good conduct, and possessed the authority of their judge and arbiter in time of peace, and of their leader in time of war. Upon a similar principle, ten of these villages, or tythings, were associated into a district, called a *hundred*, and which had an extent, corresponding to that of a modern parish. Over this district presided an officer called an *hundreder* or *centenarius*, endowed with powers analogous to those of the head-borough. A convenient combination of hundreds, formed a larger district, corresponding to the modern *shire* or *county*, over which presided the *heretoch* or *alder-man*, from whom has proceeded the modern *Earl*; and the powers of the alder-man over his shire, were entirely analogous to those of the centenarius over his hundred, and of the head-borough over his tything.

In the early ages of the Saxon Monarchy, these officers were undoubtedly possessed of

every species of authority, military as well as civil; but in the progress of things, it was probably found more convenient to separate the military from the civil power. In this stage of the system, the name of *heretoch* was given to the person, possessed of the chief military authority in the shire; and he that possessed the chief civil power was called the *alder-man*. As the modern *sheriff* is evidently the legitimate descendent of the ancient alder-man, so it is the opinion of Mr. Millar, that the *high-constable* of a parish, is the modern representative of the *hundreder*, contemplated in his civil capacity; while the *petty-constable* of a village, may be considered as standing in the same relation with respect to the *tything-man*. (Historical View of the English Government. b. i. c. 6.)

Upon the same principle which associated the inhabitants of subordinate districts into deliberative bodies, the people belonging to the whole kingdom were brought together in one general assembly, summoned by the king, the great military leader, and chief

magistrate of the community. This national council received the appellation of the *mickle-mote* or *wittenagemote*; that is to say the great meeting of the *wites* or wise men of the nation. During the continuance of the heptarchy, each separate kingdom had its wittenagemote: out of which was probably formed that great national council, whose authority extended over the whole kingdom, after the different principalities were united under one monarch.

In the Saxon wittenagemote politicians have been solicitous to trace the original model of the British parliament; and many of them would have us to believe that its members consisted not only of the greater and lesser thanes, or feudal and allodial proprietors of land, but of delegates chosen to represent the poorer orders of the people and the burgesses and artizans who inhabited the towns. The most careful investigation of ancient records, has not been able to produce a single proof in support of this hypothesis. On the contrary, there is the most satisfactory evidence from such an investi-

gation, that it was the proprietors of land alone, together with certain dignitaries of the church, who were entitled to a seat in this great assembly*. There is, however, great uncertainty with respect to the quantity of land which was sufficient to qualify for this high privilege. According to Mil-lar, the possession of a single *hide* or plough-gate of land, was, in the early ages of the Saxon government, sufficient for this purpose. According to others, no less than forty *hides* were requisite, a supposition, which is countenanced by a curious passage in the ancient register of Ely, of which, much account has been made by our political antiquarians.

“The most curious passage on this subject,” says Mr. Turner in his last volume of the history of the Anglo-Saxons, “is

* It appears however, by a law of King Athelstan, that considerable encouragement was given to commerce even in this early period of our history. By this law it is enacted, that any merchant, who has, upon his own account, made three trading voyages to a foreign country, shall thenceforward enjoy all the privileges of a thane.

that which attests that without the possession of a certain quantity of landed property, the dignity of sitting in the witenagemote could not be enjoyed, not even though the person was noble already. An abbot of Ely had a brother, who was courting the daughter of a great man, but the lady refused him, because, although noble, he had not the lordship of forty hides, and therefore could not be numbered among the *procures* or *witena*. To enable him to gratify his love, and her ambition, the abbot conveyed to him certain lands belonging to his monastery. The nuptials took place, and the fraud was, for some time undiscovered."

Mr. Millar is inclined to think, that by the *procures* were meant, not every person entitled to sit in the witenagemote, but only the proprietors of great estates, who were, no doubt, the most likely to give a regular attendance in the supreme council. At any rate, he is of opinion, that there is no evidence of this qualification having been necessary for a seat in the witenagemote in the

earlier ages of the Saxon government, as the passage relates only to what was established in the reign of Edward the Confessor*.

With respect to the functions and privileges of the Saxon witenagemote, we have sufficient evidence, that they were very considerable and important, though not very accurately defined. The witenagemote was the great council, with which the king was bound to consult in all important emergencies, and in which were debated, all questions relative to the public concerns of the nation, as well as those which respected the execution of justice, and the peculiar rights of individuals. It took a share, not only in the legislative authority, but also in the judicial and executive functions of the state. It provided for the defence of the

* The passage as quoted by Millar runs as follows:—*Habuit enim* (speaking of the Abbot of Ely) *fratrem Gudmundum vocabulo, cui filiam præpotentis viri in matrimonium conjungi paraverat. Sed quoniam ille quadraginta hidarum terræ dominium minime obtineret licet nobilis esset, inter procures tunc numerari non potuit: eum puella repudiavit.*—(Hist. Eliensis, l. ii. c. 40)

kingdom, directed the public military operations, corrected the abuses of administration, controuled the exercise of the royal prerogative, and regulated the concerns of the church.

To decide concerning military operations, was probably the primary object of calling together this assembly; and hence its regular sittings were, according to ancient custom, held twice in the year; first in the spring, immediately after seed-time, to resolve upon new military expeditions; and again in the autumn, before the harvest commenced, in order to divide the plunder. It is remarkable, that the same seasons were observed, for the meetings of the national council, in the other kingdoms of Europe. We are informed, that in France, the vernal meetings were originally in the beginning of March, but they were afterwards transferred to the first of May; from greater attention, as it should seem to the concerns of agriculture *.

* In the latter period of the Saxon monarchy, we find that the stated meetings of the witenagemote,

Thus it is plain, that along with their other powers, the witenagemote claimed the high prerogative of deciding concerning peace and war, which, in the ruder periods of our history, was one of the most important powers in the state. Of its authority, to call the sovereign to account for the abuses of his administration, a very remarkable instance occurs in the reign of Segebert, king of the West Saxons. This monarch, on account of his tyrannical conduct, after he had treated with contempt the remonstrances of his people, was, by a general assembly of the nation, expelled from his throne and kingdom, and another prince of the royal blood, elected in his place, A. D. 755*.

The government of England, therefore, during the Saxon period, was in a great measure aristocratical. The constitutional authority of the king was inconsiderable; and

increased to three, and took place at Christmas, Easter, and Whitsuntide.

* Saxon Chronicle.

his power was derived rather from his influence and weight in the great national assembly, than from the exercise of any high prerogatives, with which the law had vested him. Another powerful check upon the controul of the Saxon monarchs, arose from the authority which the church had obtained, and the privilege which many of its members claimed of directing, not only the consciences, but the political administration of all who exercised civil authority. But this was a peculiarity which belonged to the age, and not to the country; and which was equally felt at that period, and for a long time after, through all the kingdoms of Europe. It was the greatest difficulty with which some of the ablest English monarchs, after the Norman conquest, had to contend; and which embittered the repose of some of the most deserving among them.

The great event of the Norman conquest was the occasion of many important changes in the constitution of England. In consequence of the issue of a single battle, new laws and customs, new rulers, and a new

language were introduced into the country. The establishment of the Saxons, which was the result of a warfare of a century and a half, scarcely occasioned a more complete subversion of the ancient institutions of the land, than arose from the easy victory obtained by William the Norman, at Hastings. It is in vain to deny, as has been attempted by some of our antiquarians, that William considered England as a conquered country, and was determined to treat it accordingly. They would have us to believe that the Norman conquest means nothing more than the accession of a new family to the throne. But we are not to look to the feudal import of the term *conquest*, for an elucidation of this point, but to the less ambiguous evidence to be drawn from the events, which afterwards took place in England*. If we find the new ruler dispossessing the ancient

* *Conquestus id quod à parentibus non acceptum, sed labore, pretio vel parsimonia comparatum possidemus. Hinc Guliel. I. conquestor dicitur qui Angliam conquisivit, i. e. acquisivit, purchased; non quod subegit. (Spelm. Gloss. v. conquestus.)*

proprietors of their estates, and conferring them upon his own favourites and followers; if we find him subverting the ancient forms of justice, and substituting in their place, the usages and laws of his own country; if we find him looking with a jealous eye upon the conduct of the native inhabitants, and exacting contributions from them, with military rigor; we cannot hesitate to pronounce that such a ruler considered himself as a *conqueror*, and was disposed to exercise his power, with more of severity than mildness.

During the reign of William the Conqueror, the feudal system was rendered much more strict and arbitrary in England than it had been under the sway of the Anglo-Saxons. William not only embraced every opportunity of dispossessing the ancient thanes, and conferring their estates upon his own followers; but appropriated to his own use the possessions of many of those barons who had opposed him in the field, together with a great share of the

property of the church*. He thus became possessed of much greater power and authority, than had belonged to any of the Saxon race of kings; and he exercised over all the landed proprietors of the kingdom the full privileges of a feudal superior which had been but partially claimed by his predecessors.

In the Saxon period, particularly in its earlier stage, allodial, or free proprietors had been common; but after the Norman conquest, they were no longer to be found. The barons were all considered as the immediate vassals of the crown, and were held liable in all the services and pecuniary aids which were exacted by the feudal system in its strictest form; while they, in their turn, exercised the same arbitrary authority over their immediate dependents. In addition to this a new claim of feudal superiority was

* It is asserted both by William of Malmsbury and Henry of Huntingdon, that about the end of William's reign, no Englishman was either a bishop, abbot, or earl, in England.

set forth by the monarch, which was considered as the most despotic of all his proceedings, and which afterwards excited the greatest discontent in the nation: this was the asserted right to all the *game* in the kingdom, whether upon the royal domains, or upon the estate of a subject. The Norman monarchs were passionately fond of the chace, and consequently exercised this new privilege in a very arbitrary and oppressive manner. Large tracts of land, in various parts of the kingdom, were laid waste, in order to be converted into forests for hunting; houses and villages were demolished, and their inhabitants were expelled to make way for the beasts of the chace; and new and arbitrary penalties were inflicted upon such as made free with the king's game, or encroached in any manner upon his forests.

A considerable change also was produced by the Norman conquest, in the administration of justice, and in the constitution of the great national council, or legislative assembly. During the Anglo-Saxon period, the witenagemote was possessed of very

high, though rather indefinite privileges. After the accession of William, the members of this council were much more under the controul of the sovereign; they consisted entirely of the immediate vassals of the crown; and of men who had been raised to power and wealth by the free-will of their monarch. It was not therefore to be supposed that the measures of the king would meet with much opposition in such an assembly; or that any new restraints would be put upon the royal prerogative by its decisions.

It was the policy of William to establish in England, not only the Norman authority, but to introduce the Norman manners, the Norman laws, and even the Norman language. Upon this principle, the supreme national council received the name of *Parliament*, from its supposed resemblance to an assembly then known by that appellation in France. The parliament, like the ancient witenagemote had regular stated meetings, and might be occasionally convened by the monarch, when he wanted its counsel or assis-

tance. Its powers were left nearly as undefined as they had been before the Norman conquest, except in one remarkable instance, *viz.* the power of declaring peace and war. This important privilege was now distinctly claimed as a branch of the royal prerogative; and has ever since continued in the undisputed possession of the monarch. It would indeed have been an absurdity that the feudal chief should consult with his immediate vassals, upon this subject, as they were by their tenures bound to attend him in the field of battle whenever he chose to call upon them.

Here we observe the first distinct boundary drawn between the legislative and executive authority in the British Constitution. Before this period there was no precise recognition of any separate and individual power vested in the monarch, when unsupported by his national council. But now the claim of the monarch to a certain privilege was asserted, while the council was left in possession of various other powers; and from this period we may date that limita-

tion of prerogative, and precision of legitimate authority, which constitute one of the great excellencies of our constitution.

The legislative and judicial authority were still left to the parliament, in conjunction with the king ; and this assembly was likewise possessed of the important privilege of levying taxes ; although for a long time this privilege was of little value, on account of the very ample revenue which the Anglo-Norman kings had appropriated to themselves. It was a considerable time also before much advantage was derived by the parliament from the legislative authority of which they were left in possession ; and during the reign of William I. and his immediate successors, the parliament can scarcely be considered in any other light, than as the supreme court of justice in the kingdom. This too was almost the only power possessed by the parliament of France, which was not like the parliament of England, the legitimate successor of the great national council, and never was possessed of the same extensive privileges. When Hugh

Capet usurped the French monarchy, which was ready to drop from the feeble hands of the Carlovingian race of kings ; he was unwilling to trust his claims to the discussion of the barons, or great national assembly of France ; he therefore dispensed with the attendance of this council, and took upon himself the administration of all public affairs ; an example which was very generally followed by his successors : so that it formed an eventful æra of the French history, when the exigencies of the times obliged the monarch to summon to his aid the States General of the nation.

According to the system of jurisprudence which prevailed in England immediately after the Norman conquest, every baron might decide causes in his own domains, assisted by an assemblage of his vassals, which formed his baronial court ; or the sheriff might act as judge for a whole county, assisted in like manner by a certain number of assessors. From these subordinate jurisdictions an appeal lay in all cases to the high court of parliament ; and as

justice could seldom be obtained from the decisions of the inferior tribunals, the appeals to parliament became very numerous. This multiplication of business rendered the members of that assembly less disposed to a regular attendance; and hence arose a permanent tribunal, for the sole purpose of administering justice, and composed of a definite number of those persons who were entitled to sit in the greater assembly.

This court consisted chiefly of the great officers of the crown, among whom was the constable, the marshal, the chamberlain, and the chancellor, as well as the chief justiciary, who had originally been the high steward, and to whom the principal management of the court soon devolved. From the place in which it was commonly held, this court received the appellation of the *Aula Regis*; and in its constitution and origin it corresponded exactly with the *Cour du Roy*, which, after the accession of Hugh Capet, was gradually formed out of the antient French parliament, and with the *Aulic* council, which, after the time of

Otho the Great, arose, in like manner out of the diet of the German empire. In Scotland we meet with a court of the same nature, and there is reason to believe that, in every European kingdom of considerable extent, the progress of the feudal system gave rise to a similar institution.

The king himself presided in the *Aula Regis* whenever he thought proper: but the ordinary president of this court was the lord high steward, or chief justiciary, who in rank and authority had risen to be the second person in the kingdom, and to whom the king, when absent from parliament, had likewise delegated the right of presiding in that assembly.

About the same time another court arose, which was intended to assist the king in the exercise both of his judicial and executive authority. This was the *Privy Council*, which consisted nearly of the same persons that were usually called to officiate in the *Aula Regis*, or of such barons as enjoyed the particular favour and confidence of the king. The proceedings of

this court, which was entirely under the controul of the monarch, were necessarily very arbitrary and fluctuating. It was from it, that in aftertimes proceeded that jurisdiction, which, under the name of the *star-chamber*, was so obnoxious to public odium in the reign of Charles I.

From this sketch of the state of the English constitution, after the Norman conquest, it is evident that at that period the independence of the people was little respected; and that the government was of an arbitrary and oppressive character. As the Anglo-Saxon period of our history may be denominated a feudal aristocracy, so the Anglo-Norman period is best characterized by calling it a feudal monarchy: since by its regulations the power of the king was greatly strengthened, while the peculiar institutions of the feudal system were carried into their full effect.

Neither the character of William I. nor of his successor William Rufus, was suited to render an arbitrary government popular; and, during the reign of the latter monarch

in particular, complaints were frequent of the oppression of the people, and of the injuries which they suffered from the rigorous enforcement of the forest-laws. While such were the dispositions of the nation, it is not to be supposed that any favourable opportunity would be omitted of obtaining a redress of grievances. Such opportunities were afterwards found in the disputed succession to the crown; and the doubtful right of many of the reigning monarchs; together with the imbecility and unpopularity of some of their characters. From the accession of Rufus to that of Henry VIII. a great proportion of the English monarchs might fairly be considered as usurpers; and were therefore disposed to purchase the good will of their subjects, by various important concessions; while others, by the pusillanimity of their conduct, afforded the fairest opportunity of setting limits to the royal prerogative, and of securing new privileges to the people. The tyrannical disposition of the first Anglo-Norman kings was another cause of the vigorous claims of

right so early asserted by the people of Britain. Had the yoke been less burthensome, it would have been more patiently born; but it galled so severely, that the most strenuous efforts were instantly exerted to shake it off. To these peculiarities in the Anglo-Norman period of our history, we, doubtless, in part, owe that important struggle for liberty, which characterises the British annals; and which was at length crowned with the most fortunate issue. Something of this also is probably due to the genius of the British people, who, amid the greatest vicissitudes of fortune, and in spite of the most formidable obstacles, have never, during the lapse of centuries, entirely lost sight of the great object of establishing a free and equal government.

The accession of Henry I. the successor of Rufus, affords the first example of a demand of privileges made by the subjects, and formally ratified by the monarch. That politic prince, having seized the throne in direct violation of the right of his elder brother Robert, was willing to secure the

attachment of his barons, by granting, at the beginning of his reign, a public charter, in which several concessions were made, and immunities were conferred. One of the most important of these concessions, was the remitting the feudal incident of *wardship*, by which the king became the guardian of his vassals in their minority, and obtained possession of their estates during that period. The rest of the provisions of the charter were a clause respecting the privileges of the church; and another, in which the king binds himself to adhere to the *laws of Edward the Confessor*; with such amendments as William I. with advice of his barons, had introduced. (See Blackstone).

This charter is of less importance on account of the peculiar immunities it confers, than on account of the precedent which it established of rights formally demanded by the subject, and ratified by the monarch; and of an obligation entered into by the king, to govern his people, not by his absolute authority, but by the law of the

land, as already recognized. The barons seem to have been fully sensible of the value of the example thus set, as copies of this charter were sent to all the counties of England, and deposited in the principal monasteries, in order to preserve the memory of so important a transaction.

But it was in the reign of King John that the most memorable event of this kind took place; and that a permanent foundation was laid for the noble fabric of British independence. The contempt into which this monarch fell by his abject submission to the Roman pontiff; and the indignation which was excited by his tyranny and oppression, as well as by his unjust usurpation of the crown, and murder of his nephew, the rightful heir; produced at length a formidable combination of his barons against him, who demanded a redress of grievances, and the restoration of their ancient laws. They appeared in arms to enforce their claim, and the king being deserted by all his adherents, was at length compelled to submit. A meeting took place at *Runne-*

mede, a large meadow between Windsor and Staines, where the barons presented the articles of agreement upon which they insisted; and the king gave an explicit consent to their demands*. These articles reduced into writing, were ratified by the royal seal, and constituted that important document which has ever since been known by the name of the *Magna Charta*, or *great charter of our liberties*.

This charter, which John in vain endeavoured afterwards to render abortive, was formally ratified on the accession of his son Henry III. at the same time that it was extended and improved. Another deed also was added to it, called the *Charta de*

* The scene of this memorable event has been immortalised in the strains of our national poets.

—— “ Hail Runnymede!

Illustrious field! Like Marathon renowned!
Or Salamis, where freedom on the hosts
Of Persia, from her radiant sword shook fear
And dire discomfiture! Even now I tread
Where Albion's ancient barons won the pledge
Of independence.” ——

Foresta, or *charter* of the forest, by which the obnoxious parts of the forest laws were repealed, and private property was protected from the encroachments of the royal chace. These two charters were repeatedly confirmed during succeeding reigns, and were always guarded with the most watchful care by the subjects of Britain.

The great charter of King John made various provisions to secure the more equitable administration of the feudal incidents of *aids*, *wardships*, *reliefs*, *marriages*, &c. which it is not necessary here to specify. It did not wholly overlook the privileges of the trading part of the community; as it declared, that no *aid* should be imposed upon the city of London, without the consent of the national council; and that the liberties and immunities of this, and of all the other cities and boroughs of the kingdom, should be maintained. But its most important provision was that which related to the administration of justice. It contained various judicious regulations for preventing the negligence, and restraining the

corruption of judges ; and in particular it enacted that no freeman should be fined or imprisoned, unless by the law of the land, or the *judgment of his peers*. (See Blackstone.)

In this last provision, we have a distinct recognition of that celebrated characteristic of British jurisprudence, the *trial by jury*. It is highly probable that this mode of judicial proceeding was coeval with feudal institutions ; according to which, all law-suits concerning the free-men or vassals of a barony, were determined by the *pares curiæ* ; the baron, or judge, taking little more upon him than to regulate the form of proceeding, and declare the verdict of his assessors. This origin of the office of jurymen, appears better founded than that assigned by certain authors, who assert that they were originally nothing more than *compurgators* called by a defendant to *swear* that they believed him innocent of the crimes with which he was charged. Blackstone has produced many authorities to prove that it was the practice of all those nations that adopted the feudal sys-

tem to try causes by tribunals consisting of the *peers*, or equals of the litigant parties; and in particular that this privilege is expressly conceded by the Emperor Conrad, nearly in the very terms in which it is couched in *Magna Charta*, though it was granted two hundred years before. (Comm^a. b. iii. c. 23.)*

But although the trial by jury had probably been practised in the judicial proceedings of the Anglo-Saxons; it seems to have gone into disuse after the Norman conquest, when judicial combat, the trial by ordeal, and various other barbarous modes of legal decision were introduced †. It was therefore of the

* “*Nemo beneficium suum perdat nisi secundum consuetudinem antecessorum nostrorum et per judicium parium suorum.*” (Leg. Longob. l. iii. t. 8. l. 4.) By *Magna Charta* it is enjoined that no freeman shall be hurt either in his person or property:—*nisi per legale judicium parium suorum vel per legem terræ.*

† There is a general law in the reign of Henry II. by which either party in a law-suit was allowed to decline the customary mode of trial by single combat, and to demand that his cause should be determined by an *assize* or *jury* of twelve persons.

greatest consequence to obtain a formal avowal of the expediency and justice of this mode of trial, and to incorporate it formally with the acknowledged law of the land. It is remarkable that while in England the trial by jury was thus permanently established; it has been allowed in almost every other country of Europe to fall into disuse. The cause of this may be sought in the fondness which the English have discovered in every period of their history, for the maintenance of their ancient laws and usages. While the Roman law was voluntarily adopted by almost all the modern European states; it was uniformly rejected by the subjects of England, who on various occasions declared their determination to be governed by their own laws alone, which they found best adapted to their wants and inclinations *

* A remarkable instance of this occurred in the reign of Richard II.; when the nobility in parliament declared, "That the realm of England hath never been unto this hour, neither (by the consent of our lord the king, and the lords of parliament,) shall it ever be ruled or governed by the civil law."

The great transactions which we have just been recording, are equally peculiar to the History of England. In the other kingdoms of Europe, the royal prerogative was allowed to extend itself with little opposition, till at last it became too powerful to be successfully resisted. The only instance which we meet with in the French history of a successful combination of the nobles against the kingly power, and of a charter of liberties reluctantly extorted from the monarch, was in the reign of King John, who was placed in great difficulties, in consequence of the invasion of his kingdom by the English. Having assembled his States-General in 1355, he was obliged by the importunities of his nobles to grant a charter which irrevocably established the right of those assemblies, and which bears a considerable resemblance to the *Magna Charta* of England. An account of this deed is given by Boulainvilliers, in his history of the ancient parliaments of France, to whom we owe the curious information

that it had been buried in oblivion for some hundred years, insomuch that no public instrument of it remained, except one copy preserved in the king's library. The English set a juster value upon the concessions which they obtained from their monarchs.

Nearly about the same time that the great charter was ratified by the kings of England. Alterations took place in the constitution of the national assembly, which were not less important, nor productive of less durable effects upon the independence and liberties of the people. These were the introduction of the representatives of counties and boroughs into parliament, and the division of that assembly into two houses. It is much to be regretted, that our historical information concerning these remarkable events is very defective; and that we are unable to fix with any precision the exact period at which they were accomplished. This is in part owing to the loss of the ancient records of parliament, after the Norman Conquest; and in part to the gradual manner in which

these great changes were brought about ; in consequence of which they did not attract the attention of contemporary historians, and have therefore been left to the laborious, and often fruitless researches of antiquarians.

The first introduction of representatives of counties may be traced as far back as the reign of King John. A writ was issued by that monarch to the sheriff of Oxfordshire, to return four knights for that county *. In the reign of Edward I. such representatives were common, and in the eleventh year of that monarch, four knights were summoned for each county †. The causes of this innovation in the constitution of parliament may be traced with more certainty than its precise date.

During the reign of William the Conqueror the vassals of the crown, who, together with the dignitaries of the church, had the sole right of sitting in parliament, were not very numerous. It has been ren-

* Carte's History.

† Brady's History of England.

dered probable, that they did not exceed 600 ; and as they were so few in number, we may reasonably suppose that they were all possessed of great power and wealth. In the course of the succeeding reigns, many circumstances contributed to diminish and subdivide their possessions. These were the contests among the barons themselves ; the passion for crusades, by which many of them were led to sell their estates in order to fit themselves for taking up the cross ; the advancement of arts and manufactures, by which the lower order were enabled to acquire landed property ; and the desire of the English monarchs to humble the power of their proud vassals, by dividing their territory among a number of smaller proprietors. By this policy the British kings were led to encourage *devises*, and every other method by which landed possessions might be distributed among a number of persons ; while the great land-holders, in order to counteract this diminution of their influence, had recourse to the invention of *en-*

tails; by which their property might be preserved from any future alienation.

From a combination of these causes the smaller barons, or landholders, were greatly increased in number during the reigns of John, Henry III. and Edward I.; and it became the policy of those and succeeding monarchs, to encourage the attendance of these proprietors in parliament, in order to place them in the scale against their more powerful and refractory vassals. But the lesser proprietors were by no means solicitous of appearing in the great national assembly, which could not be done without inconvenient expence, and a painful comparison between themselves and their more splendid rivals. Hence arose the expedient of electing representatives, who should be authorised to act for a certain number of the inferior landholders entitled to sit in parliament, whose expences should be defrayed at the common charge of the district. The number of these representatives was at first precarious, and varied according to the

emergency. On different occasions we meet with four representatives, or knights of the shire, called from each county; but they were gradually reduced to *two*, the smallest number capable of consulting together for the interest of their constituents.

The origin of the *knights of the shire* is greatly illustrated by the history of the Scottish parliament, which, in many important particulars, was modelled upon that of England. James I. of Scotland was long kept in confinement by king Henry IV. of England; and being a prince of learning and discernment, upon his return to his own kingdom, he wished to introduce many of the institutions of his more polished neighbours. It appears from two acts passed in his reign, that he had first endeavoured to enforce the attendance of all his small barons in parliament; and upon finding this impracticable, he resorted to the expedient of introducing *representatives*. By statute 1427, c. 102. it is enacted, “ That the small barons and free tenants need not come to parliaments, provided that at the head

court of every sherifffdom, two or more wise men be chosen, according to the extent of the shire, who shall have power to hear, treat, and finally to determine all causes laid before parliament, and to chuse a *speaker*, who shall *propone* all and sundry needs and causes pertaining to the commons in parliament."

The same changes in the state of the nation, which contributed to the rise of the knights of shires, introduced likewise the *burgesses* into parliament. When trade and manufactures began to take firm root in Europe, the societies which carried them on were desirous of securing the protection of the king of the country, or the feudal superior upon whom they depended. Hence the origin of bodies corporate, or permanent assemblages of men, to which were granted certain privileges and immunities, upon consideration of their paying certain dues to their legal superior; and in this manner boroughs and corporations rose out of the feudal system, nearly at the same period, all over Europe.

When the towns under the immediate protection of the king had been incorporated, they were exalted into the rank of crown vassals ; and therefore according to the general system of feudal policy, they were entitled to a voice in the national council ; more especially when extraordinary aids were demanded from them, for the exigencies of the state. But it was impossible that all the members of every royal borough should assemble in order to deliberate upon the business of the nation ; and hence arose the expedient of electing commissioners or representatives, to take upon them the duty of the burgesses in the great national council. It is probable that this took place about the same time that knights of the shire first took their seats in the legislative assembly : but it is impossible to fix the precise date of either. Sir Henry Spelman declares, that from the most careful examination, he could find no traces of the representatives of boroughs in parliament, before the latter part of the reign of Henry III. (Gloss. v. Parliam^t.) Their

number was at first unsettled, like that of the knights of the shire ; but the policy of Edward I. led him to give permanency to both these branches of the legislature. In the 23d year of his reign directions were given to summon regularly the knights of the shire, together with the burgesses, of which, after the example of the former, two were generally sent by each borough ; and such has continued to be the practice to the present day.

The qualifications of those who were entitled to sit as representatives of counties or boroughs in parliament, as well as of their electors, probably continued for some time unsettled. The knights of the shire, and their electors, were at first only the immediate vassals, or tenants *in capite* of the crown ; but by degrees the vassals of the barons, or *rear-vassals*, as they were called, having acquired considerable property and influence, were admitted to the privilege of assisting in the nomination of knights of the shire. And it was finally enacted by statute 8 Henry VI. c. 7. that the knights

of the shire shall be chosen by persons residing within the same county, and possessed of lands or tenements, of which the yearly rent, free from all charges, amounts to forty shillings. In Scotland, from the first introduction of county representatives to the present day, no person who does not hold his lands immediately of the crown, has ever been permitted to vote in a county election.

The qualifications of borough electors vary according to the particular constitution of the corporation to which they belong, and are different in England and in Scotland. Those of the representatives, both of counties and boroughs were not finally fixed till the reign of Queen Anne, when it was enacted, that knights of the shire must have a free estate of 600*l. per annum*, and that the representatives of boroughs must have at least 300*l. a-year*. It would not have been inconsistent with the spirit of the constitution, if an alteration had at the same time taken place in the qualification of county electors, as forty shillings a-year was in

the days of Henry VI, nearly as considerable a revenue as forty pounds is at the present day.

The representatives of boroughs were introduced into the national assemblies of the other kingdoms of Europe nearly about the same time as they found their way into the English parliament; and owed their advancement to similar causes. We find them in the states-general of France, the *cortes* of Spain, and the diets of Germany and Poland; all of which consisted of three orders, or dignities, the clergy, the nobility, and the burgesses: but in none of them do we find representatives of the inferior landholders, or an order of members corresponding to the knights of the shire. This was an institution almost peculiar to the parliament of England; for it was adopted rather nominally than really by the ancient parliament of Scotland. It certainly had very important effects in promoting the independent spirit of the English legislature; and perhaps contributed more than any thing else to its division into two chambers,

or houses ; a change which did not take place in the other national councils of Europe ; but to which is due, in a great measure, the popular chamber of the British constitution.

The particular date of this important change cannot be assigned with exact precision, any more than those of the other innovations of which we have been treating : but its causes may be pretty distinctly traced. In the ancient parliament of England there were two distinct orders, the ecclesiastics and the nobility, whose personal interests were very generally at variance with each other. In the management of national business, therefore, these two orders usually had separate conferences among themselves ; and when they afterwards came to a joint meeting, they were accustomed, instead of voting promiscuously, to deliver, upon the part of each, the result of their previous deliberations. When the burgesses were admitted into the national assembly, they were by their situation and character still more distinguished from the ecclesiasti-

cal and lay barons, than those were from each other. They acted, not in their own name, but in the name of those communities by whom they had been appointed, and to whom they were accountable: at the the same time that the chief object in requiring their attendance, was to obtain their consent to such peculiar aids, or taxes, as were demanded from their constituents.

It was necessary, therefore, that they should consult among themselves, in matters relating to their peculiar interest; and that they should possess a separate voice in the national assembly. Whether these different classes of men should be convened in the same, or in different places, depended, in all probability, upon accident, and upon the number of their members, which, at the times of their meeting, might render it more or less difficult to procure them accommodation. While the representatives of boroughs were few in number, they doubtless sat in the same house with the crown vassals; but when they became numerous, and were joined by the knights of the shire,

they naturally sought a chamber of their own. At the end of the reign of Edward I. upwards of one hundred and thirty boroughs are said to have sent representatives to parliament, although at the beginning of the same reign no more than twenty exercised that privilege. (See Carte's Hist.)

The knights of the shire, no doubt, at first took their seats with the crown vassals, or in what is now called the House of Lords. But as they were more connected by station and interest, with the burgesses, they soon coalesced with that order ; and at a very early period we find the landed gentry, chosen to represent the boroughs, as well as the counties in parliament. It is from this coalition we may date the great authority acquired by the English House of Commons. The members of that house now represented a portion of the landed, as well as the mercantile interest of the nation ; and the part of the community by which they were chosen, has from that period to the present day been continually increasing in weight and respectability ; in consequence

of which a corresponding accession of authority has gradually accrued to this branch of the British legislature.

As the knights of the shire, as well as the representatives of boroughs, were only possessed of a delegated authority, and circumscribed in their deliberations by the instructions of their constituents, they could not, like the barons and ecclesiastics, act in their legislative capacity, according to their own direction ; but were confined simply to the proposal or rejection of certain measures. This peculiarity in the situation both of the knights and burgesses, was the great cause of their coalescing ; and of their deliberating in a separate chamber of their own. It was also productive of other very important effects : and in particular of that highly valuable privilege, now so tenaciously preserved by the house of commons, that all *money bills*, or proposals for new taxes, must originate in that house, and cannot be modified, but only simply admitted or rejected by the other house.

One principle reason of summoning the

commons, and particularly the burgesses to parliament, was to obtain an aid, or extraordinary supply for the particular exigencies of the king. Each borough seems to have instructed its representatives with respect to the amount which it was willing to contribute; either at the time of their election, or during the meeting of parliament, when any new emergency occurred. The deputies of the counties, being likewise representatives, came naturally to be limited, in the same manner as the burgesses, by the instructions of their constituents. The house of commons therefore could have no debate on the subject of taxation; nor could it answer any purpose, that a particular tax should first become the subject of deliberation among the peers; since no other point could be conceded by the commons, but whether the intended supply was, or was not agreeable to their instructions. Hence from the peculiar circumstances of the case arose to the commons the very important controul over the revenue, above mentioned.

At the same time devolved upon the

house of peers the high privilege which they have ever since possessed of being the supreme and ultimate judicial tribunal in the kingdom. Judicial power was always a branch of the authority of parliament; but this power could not with any propriety be exercised by delegates; and those too chosen by the inferior order of the community, and bound by the instructions which they received from their constituents. It therefore devolved upon those members of parliament who sat in their own right, whose rank exempted them from the suspicion of undue influence, and whose decisions were unbiassed by the controul of any other authority. At the same time that the judicial power thus devolved upon the house of peers, the sole right of *impeaching* public offenders, or state delinquents, was left to the house of commons. For it would have been absurd that the same assembly should assume the inconsistent characters of accuser and tribunal, party and judge.

The purpose which the English monarchs had in view, by summoning the

commons to parliament, was at first, as already observed, nothing more than to obtain a pecuniary contribution, or subsidy, from their constituents: hence, for a considerable time, little notice was taken of them in the capacity of legislators. When they did obtain a redress of grievances, it was in the character of petitioners to the king; and it was for the purpose of communicating their requests to the monarch, that they elected a president, whom they called their *speaker*. The old acts of parliament of this period, are all stated to be granted “at the *request* of the commonalty of the realm, by advice and consent of the lords;” or “by the *petition* of the commons made before the king and his council in parliament, by the assent of the prelates, earls, barons, and other great men assembled at the said parliament.”

From this mode of conducting bills for a new law, was derived the custom, that they should all take their origin in parliament; and that the king should merely admit or reject them, when they were laid

before him; but should neither propose alterations, nor offer new laws for the consideration of his parliament. Such was the origin of that important principle in the British constitution, that the legislative authority of the king is confined to a mere admission or rejection of an act of parliament. Such too was the origin of a maxim which is now considered as one of the principal securities of parliamentary independence; *viz.* that the king shall take no notice of any bill depending in parliament, and shall express neither approbation nor dislike, till it has passed both houses, and be communicated to him according to the forms of the constitution. In the case of money-bills, however, an opposite course is adopted: for as these are introduced on behalf of the crown, they cannot be taken up but upon the ground of a request or solicitation of the king to parliament.

Thus, in the course of a few reigns, and by a concurrence of fortunate circumstances, a permanent foundation was laid for the independence of parliament, and for that

happy combination of interests in the legislature, which peculiarly characterises the British constitution. The English monarchs themselves greatly contributed to these effects, by supporting the commons in their increasing claims, and by encouraging their advances towards power and influence; because they were thus best enabled to curb the ambition of their refractory barons, and to increase their own weight and authority. In fact, during the period that the house of commons thus gradually acquired its constitutional privileges, the authority of the king made proportional advances. It was found the interest of both parties to coalesce, in order to reduce the enormous power which the barons had acquired; and to accomplish this, they each willingly made concessions in favour of the other. A similar policy took place about the same time, in most of the kingdoms of Europe; in which the monarchs generally courted the favour of the lower ranks, in order to break the power of the feudal aristocracy. But the final result was

very different in those kingdoms, and in England. In the continental kingdoms, absolute monarchy was, after a time, very generally established. But in England, though the power of the crown was for a while considerably augmented; yet the privileges which the national assembly had acquired, were such as enabled it at a future crisis to make a successful struggle for independence, and to confine within the strict limits of law, the royal power and prerogative, which at that time threatened to subvert the liberties of the people. The monarchs of the continent, after having given birth to the privileges of the lower orders, with the unnatural appetite of the fabled Saturn, swallowed up their own offspring: but in England the new production was of greater vigour, and was able successfully to contend for a permanent existence, when the hostility of the parent was directed against it.

The reign of Edward I. was no less memorable for the permanent authority which the house of commons then principally ob-

tained, than for the alterations introduced into the courts of justice, by that monarch, who has been distinguished by the honourable appellation of the English Justinian. Previous to this period all causes of great importance were decided in the *Aula Regis*, or court of the grand justiciary, which accompanied the king wherever he went ; and was supposed to be greatly under the royal controul. To remedy the inconveniencies attendant upon an ambulatory court, and to provide for the great increase of causes, which arose from the improvement of the country in commerce and in arts, Edward abolished the *Aula Regis*, and established in its place three permanent courts at Westminster ; the *Court of King's Bench*, to take cognizance of crimes ; the *Court of Common Pleas*, to determine civil causes ; and the *Court of Exchequer*, to decide in matters of revenue. The judges of these courts not only heard and decided all causes brought before them at Westminster, but they obtained an ambulatory jurisdiction through the different counties of England, of which they, at

stated periods, made a circuit, for the purpose of administering justice.

Analogous arrangements were about the same time made in the tribunals of the different kingdoms of Europe. By an ordinance in the reign of Philip the Fair, the *Cour du Roy* of France was divided into two branches, called parliaments; one of which was fixed at Paris, and another at Thoulouse. More courts of the same nature were afterwards added in the different districts; and the multiplication of business occasioned a subdivision of each court into separate chambers. In Scotland the *Aula Regis* was broken into the different courts of the *session*, the *exchequer*, and the *judiciary*, corresponding to the national distinction of *civil*, *fiscal*, and *criminal causes*. But it was not till the reign of the Emperor Maximilian, that a stationary-court was formed in Germany, which was called the *imperial chamber*. It had powers similar to those of the *aulic council*, but did not, as in other countries, supercede the more ancient and ambulatory court. In England

all the three courts of law have, in process of time, been allowed to assume the cognizance of civil suits, which are become by far the most numerous class; an arrangement which is productive of an useful emulation among the members of the different tribunals, and greatly accelerates the dispatch of business.

In England also, there is another tribunal of a very peculiar nature, which soon after this period acquired a permanent form, namely, the *Court of Chancery*. The chancellor was originally the secretary of the king, who being the custodiary of the signet, or great seal, was also called the lord-keeper; and whose province it was to issue writs, and all important deeds that required the royal sanction. As the king possessed a controul over the decisions of the courts of law, and could by his royal authority correct what was erroneous or deficient in their decisions, so this regulating power was naturally exercised through the channel of his secretary, who thus became

vested with a kind of dispensing authority, or privilege of controlling the decisions of the courts of law by the principles of equity. It was in the reign of Richard the Second, that the chancellor first pronounced sentence, of his own proper authority, without a mandate from the king. Since that period, the causes which come under his cognizance, have been vastly extended: but although he is still said to judge by the rules of *equity*, he is known to be bound by the established practice and precedents of his own court.

By the establishment of the permanent courts of law in England, the judicial authority was in a great measure detached from the royal prerogative; an arrangement of the greatest importance for the security of liberty. “The laws,” says Montesquieu, “are the eyes of the prince; and by them he discovers what he could not see without them. Does he wish to perform the office of the tribunals? He labours not for himself, but for those who seduce

him to his own ruin." * It is the opinion of this great politician that nothing can be more oppressive to the people, than the union of the judicial and executive authority in one person, or in one body of men. In the kingdoms of Europe he observes, though the monarch often arrogates to himself both the legislative and executive power, yet he is content to leave the management of the tribunals of justice to his subjects; and hence his sway is not oppressive. But in Turkey, where all the three functions are exercised by the Sultan, there reigns a frightful despotism; and in the republics of Italy, where all these powers are vested in the same body of men, there is less of real liberty than in the monarchies of Europe.†

It is rather amusing, however, as Mr. Millar remarks, to discover, "that this im-

* *Les Loix sont les yeux du prince; il voit par elles ce qu' il ne pourroit pas voir sans elles. Veut-il faire la fonction des tribunaux? il travaille non plus pour lui, mais pour ses séducteurs contre lui.* (L'Esprit des Loix, l. vi. c. 5.

† L'Esprit des Loix, l. xi. c. 6.

portant regulation was neither introduced into the English government from any foresight of its beneficial consequences, nor extorted from the monarch by any party that were jealous of his power ; but was merely the suggestion of indolence ; and was adopted by the king, in common with other feudal superiors, to relieve them from a degree of labour and attention which they did not chuse to bestow *.” But in this as in other cases, where established usage had sanctioned a beneficial practice, the English shewed themselves extremely solicitous of preserving it when introduced ; and were ever after very jealous of that independence of their tribunals, which had arisen from the voluntary concessions of their monarch. If chance threw a jewel in their way, they had sufficient penetration to appreciate its value ; and sufficient prudence to guard against its future loss.

Blackstone informs us, that in a trial by impeachment before the house of lords,

* Historical View of the English Government, b. i. c. 12.

King James I. was inclined to take his seat, as *præses* of the court, and to give his voice. But being informed by the judges, that this was contrary to the constitutional usage of England; and that he sat there only as a spectator, he did not think proper to enforce this claim. The independence of the English courts of law, however, was not rendered complete till the abolition of the star-chamber in the reign of Charles I. and the permanent appointment of the judges for life, instead of during the pleasure of the monarch; which was an arrangement of a much more modern date.

Having dwelt thus amply upon the history of the British constitution during its earlier stages; and traced the rise of those constitutional privileges of which the various branches of the legislature, the executive magistrate, and the tribunals of justice, have become lawfully possessed; I shall mention very briefly, the changes which our constitution underwent from the reign of the House of Plantagenet, to the great æra of the Revolution. These changes

indeed are scarcely less important than those upon which I have bestowed a more minute attention ; but they are so well known to all the readers of English history, that to dwell long upon them, in a work like the present, would be superfluous and absurd.

During the long and bloody struggles between the Houses of York and Lancaster, for the succession to the crown, it was the sword, rather than the constitution, or the laws, that ruled in England. In this disastrous contest the power both of the barons and the commonalty, was weakened and divided ; and when the House of Tudor obtained possession of the throne, a more arbitrary system of government was introduced, than had been tolerated since the days of the Anglo-Norman princes. Such was certainly the character of the reigns of Henry VII. and VIII. of Mary, and even of Elizabeth ; although, in the case of the latter princess, the principles of arbitrary sway were so tempered with wisdom and justice, as to

be rendered entirely palatable to the people. Henry VII., a politic and crafty prince, was the author of a device, by which entails might be legally defeated; a measure which had a considerable influence in weakening the power of his barons, by more effectually providing for the diffusion of their property into many channels. But the most distinguished event of this period was the introduction of the reformed, or protestant religion into England; which began in the reign of Henry VIII. and was finally accomplished in that of Elizabeth. By this important event, the spirit of independence and of free inquiry was fostered among the people; at the same time that some valuable additions were made to the prerogative of the monarch; who, from that period, was considered as the head of the national church, and as the lawful patron of all its greater benefices.*

* In consequence of this event, the Court of *High Commission* was instituted, in order to judge of reli-

When the House of Stewart succeeded to the English as well as the Scottish throne, a love of liberty had become very prevalent among the better informed inhabitants of England. The general diffusion of letters, the improvement of commerce and the arts, and the establishment of a rational system of religion, all contributed to encourage and propagate this spirit. The prerogative of the monarch was, therefore, looked upon with a jealous eye, more especially as the family that had succeeded to the throne was suspected of principles unfriendly both to the liberties and religion of the nation: its exercise was strictly watched, and no favourable opportunity was neglected of defining its boundaries more accurately than had yet been done;

gious controversies, and take cognizance of all matters concerning orthodoxy, and the modes and forms of public worship. This court was appointed by Elizabeth, with the consent of parliament; but its decisions were so arbitrary, and so much under court influence that its abolition was insisted on, along with that of the Star-chamber, during the struggle for liberty in the reign of Charles I.

or of applying a legal restraint upon any of its privileges that might be considered as hostile to the public safety.

The pacific reign of James I. encouraged and strengthened this growing spirit of independence. It is in times of peace that men have leisure to examine grievances, and are not deterred from applying the strongest remedies to remove them. No open hostilities, however, between the king and the people took place during this reign; and the utmost length that the House of Commons proceeded in ascertaining their own privileges, and defining the extent of the prerogative, was the presenting some spirited remonstrances and projects, in which the high pretensions of the monarch were disclaimed, and the unalienable rights of the people distinctly asserted.

Charles I. had the misfortune to mount the throne at the moment when the mine, which had thus been preparing against the excessive power of the king was ready to burst. The very first parliament which he

summoned, gave evidence of what he might expect, by the scantiness of the supplies which they voted, and the alacrity with which they set about the reformation of abuses. A very important change had now taken place in the nature of the public revenue, and the sources from which it proceeded. The royal domains, from alienation or improper management, were altogether inadequate to support the dignity or supply the necessities of the crown; and little was added to the public revenue by the permanent duties which the king had a right to levy. The military system also which had arisen in Europe, according to which a permanent army of mercenaries had taken place of the temporary levies of feudal vassals, greatly increased the demands of the monarch for supplies from his people. The English house of commons seem to have been fully aware of the weight which they derived from this state of things; and equally determined to employ the controul which they had obtained over the national supplies, as an en-

gine for procuring the reform which they so ardently desired.

Charles finding, by repeated experience, that his parliament was resolved not to grant him the necessary supplies, without obtaining, in return, concessions which he was by no means disposed to make; endeavoured to support his revenue by other expedients than a vote of the representatives of the people. He could, perhaps, quote uninterrupted usage, and the rights of a feudal superior, for the methods to which he resorted; such as the claim of purveyance, the duties of ship-money, of tonnage, and poundage, &c. but the temper of the nation was so decidedly hostile to this method of exaction, so many difficulties were thrown in its way, and it rendered the king and his advisers so odious to the people, that he found himself, with whatever reluctance, obliged again to resort to parliament, after a lapse of many years. To obtain a supply from this assembly he found himself, at length, com-

pelled to acquiesce in their demands; and the ratification of the *Petition of Right* was the consequence of bringing them together. Finding them rise still higher in their pretensions, he was again induced to dismiss them, with the resolution of calling them no more; but, an attack from an unforeseen quarter, obliged him to alter his determination. The attempt to introduce innovations in the religious worship of the country, completed the measure of Charles's calamities. The Scots took arms in defence of presbyterianism: the parliament, which the king assembled in this emergency, proceeded to open hostilities against him; and, after a desolating contest, in which much blood was spilt, succeeded in expelling him from the throne. A daring adventurer, whom these troublesome times had raised into notice, assumed to himself the reins of Government at the same time that he brought the unfortunate Charles to the block:—he was powerful enough to overthrow both the established religion,

and civil constitution of his country ; and to erect in their stead a military despotism, under the title of a republic.

The despotic sway of Cromwell speedily brought the people of England to their senses, and excited the most ardent desire for the restitution of the ancient government and religion, and the re-establishment of the ancient race of kings upon the throne. Soon after the death of the usurper, this memorable event was brought about with wonderful unanimity, and without any convulsion or bloodshed. So anxious was the nation to restore the ancient order of things that they made no stipulations with their new monarch ; but admitted him to the full exercise of all the privileges and prerogatives which remained to the crown, when the unfortunate civil war had broken out. Several important regulations, however, had then been made : the obnoxious jurisdictions of the star-chamber, and high commission had been abolished ; restrictions had been laid on the oppressive and unconstitutional

modes of levying supplies; and it had been enacted that the king should summon his parliament, for the dispatch of business, at least once in three years.

Charles II. though of more affable and popular manners, was not less despotic and arbitrary in his principles than his father; and was much less restrained by considerations of justice or morality from attacking the liberties of his people. In fact, during his reign, many dangerous encroachments were made on the independence of the legislative and judicial authorities; and the king was enabled, on some occasions, to dispense with the assistance of parliament, in replenishing his exhausted coffers, by the dishonourable and unpatriotic expedient of receiving a pension from France. But even during this reign, the British Constitution received some important improvements. It was then that the great bulwark of personal liberty, the *Habeas Corpus* Act, received the sanction of parliament: and then were feudal tenures, with all their troublesome appurtenances

of reliefs, wardships, marriage fines, &c. &c. finally abolished. This great reform in the landed system of the country was not extended to Scotland till the reign of George II.

The predilection of all the princes of the House of Stewart for the doctrines of popery was strongly suspected by the nation; but, in the case of James II., the successor of Charles, it was openly avowed: and though this monarch, previously to his mounting the throne, had solemnly pledged himself to support the established religion of the country; it soon became manifest that it was his wish to encourage his own faith, at the expence of that which was sanctioned by the laws of the land. By this unjustifiable conduct, and by the arbitrary proceedings to which it gave rise, all parties in the nation, except the catholics, were combined against the king; and the stadtholder of Holland, who had married the protestant daughter of James, was invited by the leading men in England to assume the reins of government.

The monarch, finding himself deserted by his subjects, and alarmed for his personal safety, secretly left the kingdom, and took refuge in France. He was declared by Parliament to have *abdicated* the throne: and the stadtholder, in conjunction with his wife, was appointed to rule in his stead.

In this manner was accomplished the memorable event of the the Revolution, A. D. 1689. The contest between privilege and prerogative, which had agitated the kingdom for nearly a century, was, at length, happily terminated: and the rights both of the monarch and of the people were accurately defined; and placed upon the substantial basis of the written law of the land. A formal instrument was drawn up, and sanctioned by both houses of parliament, called the *Act of Settlement*, by which the succession to the throne was limited to the protestant descendents of the ancient race of kings; and the protestant religion was declared to be for ever after, the established faith of the

country. To this deed was annexed a *Declaration of Rights*, in which all the points that had been of late years disputed between the king and the people, were finally adjusted; and the powers of the royal prerogative were more strictly defined, than in any former period of the English government.

The æra of the Revolution is likewise remarkable for establishing that great bulwark of British independence, the *Liberty of the Press*. Previously to this period, nothing could be printed in England, any more than in other countries, without a royal licence. While the court of star-chamber subsisted, the freedom of printing was effectually restrained by its means. On the suppression of that tribunal in 1641, the long parliament, after their rupture with the king, assumed the same authority with regard to licensing books; and this authority was continued during all the period of the republic and protectorship. Soon after the restoration, an act was passed, reviving the republican

ordinances on this subject ; but in the year 1694, all restraints upon the press were taken off ; and full liberty was given to the people to print and publish whatever they thought proper.

Rarâ temporum felicitate, ubi sentire quæ velis, et quæ sentias dicere licet.—*Tacitus*.

The value of this great concession cannot be too highly appreciated ; and it has contributed, perhaps, more powerfully than any other characteristic of the British Constitution, to give permanency to that independence of thought, and freedom of action, which it is the great object of our laws to secure. This is a check which may occasionally operate upon every authority of the state. It may restrain the ambitious demagogue, as well as the arbitrary minister ; it will discountenance sedition, as well as tyranny. Even the Monarch on the throne is not exempted from the salutary controul of this all-governing engine ; for riches, rank, and power, cannot compensate for the loss of public esteem ;

and the fear of public censure will deter from offences which cannot be reached by any other tribunal. Like the sword of justice suspended by a single hair over the head of an offender, the dread of public reproach is continually before the eyes of men in power, and operates, in spite of themselves, as a check upon their selfish passions and corrupt propensities.

It is, indeed, to the freedom of the press, and the general diffusion of liberal sentiments of government throughout the nation, that, in my opinion, is chiefly due the security of the people, in *the Present State of the British Constitution*. I trust not to the complicated system of checks and preventives, which is introduced among our constituted authorities for the preservation of our independence. They are beautiful in theory; but too easily eluded in practice. They require that all men in authority should have enough of public spirit to endeavour to do their duty; while experience has shewn that men in authority are peculiarly liable to

be corrupted. But while there prevails throughout the nation a just sense of our genuine rights; while there is wisdom enough to appreciate the value of independence, and spirit to assert the claim before the tribunal of the public; though for a time we may be successfully oppressed, we cannot be long without obtaining redress. The voice of a majority of the British nation cannot be resisted with safety: it has already brought many corrupt ministers to the scaffold; it has compelled the repeal of oppressive laws; it has even reached the sanctuary of the throne; and proved more powerful than the will of the highest recognized authority in the state.

To prove that to this great safeguard we are chiefly indebted for our independence, in the Present State of the British Constitution, is the object which I propose to myself in the *second part* of this work. In my endeavour to establish so important a truth, I shall, as in the preceding part, be chiefly guided by the light of history;

and shall examine successively the *practice* of our constitution, at the most remarkable epochs of the British annals from the revolution to the present time.

PART II.

DURING that long and eventful period of our history, of which a very brief sketch has been attempted in the preceding pages, we have seen the spirit of independence, and the love of liberty breaking through the gloom of a barbarous age, like the cheering rays of a morning sun, gradually dispelling the mists and clouds by which its brightness was obscured ; and at length attaining to the full glory of meridian splendor ; and diffusing a steady and exhilarating influence on all around. The love of liberty among Britons, was not, as it has lately shewn itself in a neighbouring nation, a sudden and violent ebullition of patriotism ; which, like the transient glare of a meteor, only renders the returning

darkness more horrible : it was a steady predilection founded upon principle, and so deeply rooted as to withstand, for a series of ages, the most powerful opposition ; while, at the same time, it was so wisely tempered as to carry innovation no farther than was absolutely necessary to give security to the state.

The patriots who conducted the great work of the revolution had wisdom enough to shew the rock upon which the popular leaders, in the days of Charles I. had split. They knew the fatal effects which had arisen from indulging in a wild spirit of reform : and from subverting every ancient establishment, under the pretence of rectifying abuses, and restoring independence. They, therefore, left the great work of the constitution, in every essential part, the same as they found it ; they were contented merely with lopping off redundancies, and with giving to the foundations of the structure that stability which, in some respects, they seemed to want. That they acted wisely may now be considered

as proved by the test of experience ; for though more than a century has elapsed since the revolution was accomplished, scarcely any thing has been added to the labours of the reformers of that period ; and our constitutional code has been allowed to stand the same as it came from their hands in every essential part. I shall, therefore, in a very few words, sketch the the great outlines of the British Constitution as it was matured at this remarkable period.

In the British Constitution the legislative authority belongs to Parliament, which consists of three parts, or estates ; the King, Lords, and Commons. The House of Lords comprehends the temporal peers of England, denominated dukes, marquisses, earls, viscounts, and barons ; and the spiritual peers who consist of two archbishops, and twenty-four bishops. To these, since the Unions with Scotland and Ireland, are added sixteen delegates from the peerage of the former kingdom, and thirty-two from the latter. The House of Com-

mons consists of the deputies of the counties and boroughs of England, and of the two universities, amounting in all to 513 members ; to whom, since the Unions, are added 45 from Scotland, and 100 from Ireland. The members of both houses are exempted from arrests, except in cases of criminal conduct : the Chancellor presides in the House of Lords ; the Speaker in the House of Commons.

The king has the power of convoking, proroguing, and dissolving parliament, which, at present, does not expire of itself in less than seven years. His legislative authority is limited to a negative on the propositions, or bills of parliament. Each house has a similar negative on the decrees of the other ; and may, moreover, propose to alter or amend them ; except in the case of grants of money, which must take their rise in the house of commons, and cannot be altered, though they may be rejected by the lords. Each house also is the sole judge of its own forms and and privileges ; of the qualifications of its members ;

and of their conduct during debate: all other public questions may originate indifferently in either branch of the legislature.

The judicial power is entrusted to the various courts of justice throughout the kingdom: but an ultimate appeal in all civil cases, may be made to the house of lords. At this tribunal also, the king's ministers, and all public offenders are impeachable by the house of commons.

The executive authority is entirely lodged with the king. He is the public prosecutor of all crimes, and is entrusted with the power of pardoning, and of suspending, the execution of sentences. He is the superintendant of commerce, and has the power of regulating weights and measures, and of coining money. He is the head of the church, and names the archbishops and bishops. He is the fountain of all honour, and disposes of all titles, dignities, and offices of the state. He is commander in chief of all the sea and land forces, and can alone equip fleets,

levy armies, and appoint their officers. He has the sole power of declaring peace or war, of making treaties, and of sending and receiving ambassadors. He is above the reach of all tribunals, and cannot, in his royal capacity, be accused of doing wrong.

The following are the constitutional checks upon the abuse of these high privileges. The king, though he may pardon criminals, cannot prevent the prosecution of crimes; and he has no controul in civil cases; nor where an offence is punished by pecuniary compensation. Though he issues the coin, he cannot alter its standard value. Although he is head of the church, he cannot alter the established religion, nor frame ecclesiastical regulations.— Though he can declare war, he cannot pay his forces without a parliamentary grant, which is never continued for more than a year at a time. Though, in his royal capacity, he can do no wrong, yet his ministers are responsible for every measure of his government; and may be

subjected to the severest punishment by the mode of impeachment.

There is, however, one branch of the royal prerogative, against which no acknowledged check has yet been provided; and it is a source of authority, which, I believe, at the present day, is more highly prized by the adherents of the crown than all the rest. This is *the patronage which the king enjoys over the principal offices of trust and emolument in the kingdom*: a patronage which, in consequence of the growth of our national debt, and the extension of our military force, “has increased, and is increasing.” What security have we, I demand, that offices of power and profit will be bestowed upon the virtuous and patriotic, rather than upon the selfish and servile? Have pensions and places never been employed by a minister as the surest means of procuring popularity; and of securing a legislative sanction to measures which were intended rather to aggrandize himself than to promote the interests of the country? Has the ma-

majority of our legislators never been won, by the potent argument of self-interest, to support the servants of the crown in their attacks upon the independence of the people? and has such a majority never been known to adhere with a mean servility to all the measures of those who were in office, even where those measures were of the most contradictory and inconsistent tendency?

Against this defect of patriotism, and propensity to corruptness in our parliamentary representatives, I own I know of no adequate safeguard, if it be not found in the appeal to the public mind, which a *free press* so readily furnishes. The repetition of such offences may be prevented by heaping upon them the odium and disgrace which they so truly merit. If we cannot expose these state delinquents to public insult in the pillory or the stocks, we can, at any rate, hold them up to scorn in the records of the times: we may thus convince them that they are unable to sin with absolute impunity; and that when

they barter their independence for preferment, they must along with it give up their good name. With those who are not altogether abandoned, a chastisement of this kind will not be without its weight; for few there are who will not think the total loss of reputation too dearly purchased by any preferment which the state can bestow. As the most determined libertine may be restrained from excess by the fear of disease, so the most corrupt statesman may be kept in the line of his duty by the dread of infamy.

With a view to prove that this check against corruptness has not a merely ideal existence, but that its beneficial influence has been already experienced at the periods when our constitution was in greatest danger of being undermined by the baneful effects of ministerial preponderancy, I shall proceed to my proposed survey of the remarkable epochs of our constitutional history, from the revolution to the present time.

It seems to have been the intention of William, when he mounted the English throne, conscientiously to discharge the important trust which had devolved upon him. Possessed of an active and vigorous mind ; and accustomed to enter personally into the details of government, and to encounter the fatigues and dangers of war, he was not disposed to entrust too much to the wisdom and fidelity of ministers ; or to be contented with the mere pageantry and parade of monarchy. He wished to understand the constitution of the country, which he had undertaken to govern ; and betrayed no tokens of any undue desire to overturn its restrictions, or to extend unwarrantably the powers of which it gave him the lawful possession.

At the same time William was sufficiently tenacious of his own rights ; and the reserve of his manner probably induced the belief that his principles were more arbitrary than they really were. It was with great reluctance that he gave his consent to the removal of all restraints upon

the liberty of the press, which took place about five years after his accession to the throne. "The king, and his ministers," says Mr. Hume, "seeing no where, in any government, during present or past ages, any example of such unlimited freedom, doubted much of its salutary effects, and probably thought that no books or writings would ever so much improve the general understanding of men, as to render it safe to entrust them with an indulgence so easily abused."

In another instance, William adhered still more steadily to what he thought expedient; but was at length obliged to acquiesce in the wishes of his people. A bill was passed, both by the lords and commons, in which it was proposed to limit the natural duration of parliaments to three years; and to hold at least one session annually. When this bill was presented to the king, he thought proper to reject it by his royal *veto*. The measure, however, was greatly relished by the nation; and, in a succeeding parliament, was again brought

forward somewhat altered in form. His majesty did not think it expedient to persist in his refusal; and the proposition was accordingly passed into a law.*

This I consider as a striking example of the controul which the general sense of our fellow citizens possesses over the decisions of those in authority: a controul which cannot fail to be highly beneficial, so long as liberal sentiments of policy continue to be diffused through a great part

* The commons secured the royal concurrence to this act, when proposed the second time, by coupling it with a money bill. By an old statute in the reign of Edward III. it was enacted that, "for redress of divers mischiefs, and grievances which daily happen, a parliament shall be holden every year, or oftener if need be." But in every reign previous to the revolution, many years were allowed to elapse without summoning a parliament; and we have seen that in the reign of Charles I. it was esteemed of importance by the people to secure that parliament should sit once, at least, in three years. Before this period also, the sessions of parliament were very short; and it depended on the pleasure of the monarch when a new election should be made.

of the nation; and while we constantly keep in remembrance the value of the birthright of independence which we owe to the arduous struggles of our forefathers for free and equitable laws. It is remarkable that since the days of king William the royal *veto* has never been resorted to in opposition to the voice of both houses of parliament; so that from this period we may date the origin of the system of forwarding the views of the crown by *influence* rather than *prerogative*.

During the reign of William, the party distinctions of Whig and Tory greatly divided and agitated the nation. The whigs were the staunch adherents of the principles of the revolution, and the enthusiastic admirers of liberty and independence. The tories were inclined to support the royal prerogative, even at the expence of the rights of the people; they maintained that the rights of kings were divine and indefeasible; and could not be resisted without a species of sacrilege. Among this sect lurked many Jacobites, or secret ad-

herents of the exiled family of Stewart; while among the whigs there were some who were strongly suspected of republican principles. It was natural to expect that the whigs would enjoy the greatest share of William's confidence, as he had been placed upon the throne principally by their means.

In the reign of Queen Anne, the struggle between the whigs and tories raged with increased violence. That princess mounted the throne at a moment when all Europe was about to take arms, in consequence of the accession of a French prince to the crown of Spain. Finding the war popular in England, she was induced to give it her support; and to employ in her service Godolphin and Marlborough, the avowed leaders of the whigs, although she was known to have a decided partiality for the principles of the tories. The ascendancy which Sarah, duchess of Marlborough, had acquired over the mind of the queen, greatly contributed to keep her steady in this resolution.

Under the conduct of so able a statesman and consummate a general, the contest with France was carried on with great success; and the arms of the allies obtained a series of victories of a splendor almost unparalleled in the annals of Europe. For several years the influence of the whigs, headed by Godolphin and Marlborough, was completely predominant in the English councils; and the war, notwithstanding the great expence with which it was attended, continued to be popular with the bulk of the nation. But nothing is more fluctuating than the favour of the people. A long series of victories deprived success of the charms of novelty; and the surrender of a town, or the destruction of an army, ceased to excite any emotions of joy. The people began to think of the enormous debt which they had contracted in order to support the war; and to enquire what solid benefit they were to reap from such a waste of blood and treasure. While the evil was manifest, the benefit was by no means so apparent; and the popular tide soon began to run against a con-

test, which at first stood foremost in the favour of the people.

It was then that the hopes of the tories began to revive ; and that they renewed their exertions to obtain possession of the reins of government. A new female favourite of the queen, Mrs. Masham, happened to be in their interest ; and in the person of Mr. Secretary Harley, afterwards Earl of Oxford, they possessed a leader well qualified by activity, and the arts of intrigue, to accomplish the elevation of his adherents at the expence of their rivals. The whigs themselves contributed to their downfall, by their imprudent and intemperate zeal against an insignificant opponent, whom they ought to have consigned to contempt and oblivion. This opponent was the famous Dr. Henry Sacheverell, an avowed partizan of the tory and high-church party. On the 5th of November, 1709, the anniversary of the gunpowder-plot, this divine delivered a sermon before the mayor and aldermen of London, in which a most vehement attack was made upon the principles and conduct of the

whigs. They were accused of a design of subverting the government, and the established church, and of introducing republicanism and presbyterian discipline in their stead. The sermon was afterwards published, with additions still more virulent and inflammatory than itself, and such was the curiosity which it excited, that forty thousand copies are said to have been circulated in a few weeks.

The whigs were highly incensed at this treatment, and particularly Godolphin, who was personally attacked in the sermon.—The offence not being punishable by common law, it was resolved to proceed by the method of impeachment. Sacheverell was taken into custody, and articles were exhibited against him by the commons at the bar of the house of lords. From that moment the popularity of the whig administration was at an end. The compassion of the people was roused for Sacheverell, whom they considered as the victim of power, and a martyr in the cause of church and state. When he was conducted to

Westminster-hall for examination, crowds of the populace attended, offering up prayers for his safety. The whigs became alarmed at the popular clamour. Sacheverell was indeed found guilty, but his sentence amounted only to a suspension from preaching for three years ; and the triumph of the tories was as complete as if he had been honorably acquitted.

The trial of Sacheverell was almost immediately followed by a change of ministry ; and by the assembling of a new house of commons, in which the tory interest completely predominated. Harley, and his friend St. John, afterwards Lord Bolingbroke, were placed at the head of affairs ; and, of all the whig leaders, the Duke of Marlborough alone was left in possession of his appointments. His popularity was at that time too high to allow of his dismissal ; and while the war continued it was found impossible to dispense with his services. The new ministry were extremely desirous that a war which owed its success and its popularity to the Whigs, and which was no longer re-

lished by the people, should be brought to a close. Negotiations were immediately opened for that purpose; but the influence of Marlborough was still so great, as to procure a vote of the house of lords, condemning the plan of pacification: a very strong measure was now adopted by the ministry; twelve new peers were created in one day to secure a majority in the house of lords; the Duke of Marlborough was deprived of all his employments, and the negotiations were carried on by the concurrence of both houses of parliament, till at length they terminated in the memorable treaty of Utrecht.

The influence of public opinion in promoting these great transactions, and in counteracting the views of those who were in power, is so apparent, that I shall not waste time in pointing it out. It was no less manifest in the important event, which immediately took place upon the death of Queen Anne; the accession of the House of Hanover to the British throne, A. D. 1714. A considerable party in the kingdom, and a

decided majority of the tory ministry then in power, were desirous of giving the crown to the son of James II. known by the name of the Pretender. But the voice of the nation was resolute against this measure, and completely decided upon fulfilling the Act of Settlement. Encouraged by this support, some of the leading whigs voluntarily came forward and obtained without any opposition, that George elector of Hanover should be proclaimed king of Great Britain, as soon as Queen Anne had expired.

The arrival of George I. in England, immediately deprived the tories of their power, and replaced it in the hands of the whigs, with whom it may be said to have almost entirely remained ever since that period. In consequence of this, the distinctions of whig and tory exist now only in name. The advocates for passive obedience, and the divine right of kings, soon dwindled into an inconsiderable junto; and the whigs, when they found themselves firmly seated at the helm of affairs, speedily lost sight of their republican maxims, and were suffi-

ciently disposed to support the interests of the crown, even at the expence of the independence of the people. The leading parties in the kingdom were now the court and the country factions, or the adherents of administration, and its opponents. Whatever the one supported, the other resisted, and the struggle between them was evidently for power and preferment, rather than for any precise system of national policy.

The most important constitutional arrangement, which took place during the reign of George I. was the *septennial bill*; by which the natural duration of parliament was prolonged to its present period of seven years.

About the beginning of this reign the celebrated Sir Robert Walpole acquired the chief direction of public measures, which he continued to enjoy for a longer time, than has fallen to the lot of most of our prime ministers. This statesman was well acquainted with the interests of his country, which he justly conceived to be better pro-

moted by pacific measures than by the most successful war. His long administration was a period of almost uninterrupted peace; but it was a period of corruption, venality, and a lamentable defect of public spirit.

The expensive continental wars which had begun in the reign of King William, and had been so vigorously prosecuted during the reign of Queen Anne, had brought upon the nation a load of permanent and funded debt, and a great income of taxes in order to discharge the interest of this capital, and to meet the increasing exigencies of the state. The charge of collecting and managing this immense public revenue devolved entirely upon government, and by giving rise to a multiplicity of new officers, created by, and removable at, the royal pleasure, threw much additional weight into the scale of ministerial influence; opportunities were continually occurring, not only of bestowing profitable employments; but of conferring obligations of a more indirect kind, by giving a preference in loans, contracts, and other money transactions.

No minister ever understood the value of these expedients for securing power better than Sir Robert Walpole. It was his maxim, that *every man had his price*; and and that those who were too squeamish to take an acknowledged bribe, could at any rate be won by favors of a certain kind.

Omnis enim res,
Virtus, fama, decus, divina, humanoque, pulchris
Divitiis parent. HOR.

The money voted by parliament was now without scruple employed to corrupt its members; the wealth of the treasury was let loose to purchase the suffrages of the people at elections. Thus the fountain of liberty was poisoned at its very source; and a canker was insinuated at the root of the tree, which threatened to wither its fairest blossoms, and lay all its beauties prostrate in the dust.

This was an invasion of our liberties, which had not been foreseen by the patriots of the revolution. No check had been devised for this undue extension of ministerial

influence: and indeed it is not easy to say what legal remedy might prove sufficient to cure so dangerous a disorder. Laws cannot render men virtuous, independent, and disinterested. They may indeed inflict penalties on venality and corruption; they may punish and disfranchise the man who takes or who offers a bribe; but so many expedients may be found to cloak this detestable practice with the appearance of honesty, and to elude the proofs which law must require to establish the crime, that little can be hoped from all the denunciations of judges and juries against a system which so many interests conspire to encourage. The sense of shame is one barrier against the overwhelming force of this destroyer of our independence. The love of reputation may still be more powerful with many of our statesmen than the love of gold; and corruption, though not amenable to the law, may still be restrained, by being held up to public reprobation, and branded by the nation at large with the infamy it justly deserves. A forward child may be ren-

dered obedient by wholesome correction; and a venal statesman, though he cannot be rendered virtuous, may be kept from betraying his country by the dread of reproach.

The voice of the country, though too long disregarded, was at length successful in putting an end to the venal administration of Sir Robert Walpole. In the year 1742, this able, though unprincipled statesman, finding he could no longer secure a respectable majority in the house of commons, resigned all his employments; and the most distinguished leaders of the opposition, with Mr. Pulteney at their head, were entrusted with the management of public affairs. These had long been distinguished by the name of patriots; and it was expected by the people, that under their administration abuses would be reformed, and a liberal system of policy carried into effect. A number of motions to this purport was accordingly made in both houses of parliament; but what was the astonishment of the nation to find these motions violently

opposed and quashed by the very men who had lately maintained the principles upon which they were founded, and by whose former speeches they had been chiefly suggested?

A ministry who were guilty of so shameful a dereliction of principle could never secure the confidence of the people. Their conduct was arraigned by all parties, and their credit speedily vanished into nothing. In two years after their elevation, they were abandoned by the crown, in compliance with the wishes of the nation; and a new ministry was formed upon the liberal principle of uniting men of all parties, and all interests, in the service of the state. At the head of this administration, which was called the *broad bottom*, were Mr. Pelham, and his brother the Duke of Newcastle. The variety of interests which it included for a long time lulled the voice of opposition; but the measures which it pursued were distinguished neither for ability nor liberality, and a series of national disasters soon completely deprived it of the public confidence.

England was now engaged in a war more extensive in its operations, and more important in its object, that had before called forth the resources of the nation. The arms of France were directed against her power, not only by continental campaigns and expeditions against her sugar islands, but by an organized system of attack upon her extensive colonies, both in America and the East Indies. In resisting this complicated warfare, the British arms had acquired no glory; and the nation became dispirited and alarmed by repeated defeat and disaster. Fears were entertained for the safety of the island itself, which was threatened with a French invasion; when, to complete the national disgrace, the proposal of arming a militia was rejected, and the defence of the British coasts was entrusted to a legion of German mercenaries, called over for that purpose.

The ministry could not withstand the odium of so many political blunders. Their leaders were dismissed with disgrace from his majesty's councils; and the immortal William Pitt, afterwards Earl of Chatham,

at that time the most popular man in the kingdom, and deservedly considered as the first of patriots, was placed at the helm of affairs. The immediate effect of this change of councils, was the dismissal of the foreign troops ; and the enactment of a law for establishing a national militia, as the only constitutional defence of British freedom.

It was in 1756, that Mr. Pitt accepted the office of Secretary of State. Faithful to the patriotic principles to which he owed his elevation, he soon after steadily opposed a proposition of the king's, to send over a body of British troops for the protection of Hanover. In consequence of this opposition he was obliged to resign his employment ; but new disasters continuing to overwhelm the British arms, he was, in the year 1757, once more called to the cabinet, in compliance with the unanimous wish of the nation. Can any thing demonstrate more clearly the influence of public opinion in directing the government of our country ? If there be a power which is vested undisputably in the

crown, and of which there is no constitutional limitation or controul, it is the choice of ministers. Yet in this instance we behold a man with no other claims to royal favour, than that of popularity and reputed patriotism, elevated to the first rank in administration by the suffrage of his fellow citizens; and, although dismissed on account of his uncourtly opposition to a favorite measure of the king's, yet reinstated in all his power, because he alone possessed the virtue and abilities, which the nation then demanded in the conductors of public affairs.

Let the lesson sink deep into the minds of those who endeavour by intrigue and chicanery to dispossess of the royal favour those faithful servants in whom the public places confidence. Let them remember that the voice of the nation must at length prevail. That although they may succeed in gaining for a time, the royal ear; and in driving from the cabinet those rivals whose virtues and talents have excited their hostility; yet in the end defeat and disgrace assuredly await

them : and the love of the people will, in a free country, effectually support the patriotic servants of the public against the aspersions of calumny and the machinations of intrigue. The torrent that is dammed up by a feeble barrier, cannot long be restrained from pursuing its natural course ; and while it bursts through, it not unfrequently destroys the impotent obstacles by which it was opposed.

The elevation of Mr. Pitt, though the most signal, is not the only example, of ministers called to office by the voice of the people. The preceding details afford several instances of this ; and the events of the present reign might supply us with more than one example. To the transactions of that reign, so far as they are connected with the present inquiry, I now proceed with all that deference and respect which is due from a loyal subject, to the most virtuous and beneficent of kings.

At the accession of George III to the British throne, the glory of the nation had attained its utmost elevation. Under the

auspices of Mr. Pitt success had crowned our martial enterprizes in the remotest parts of the globe. The fame of our arms resounded from the banks of the Ganges, to the cataracts of St. Lawrence: the power of France was effectually broken both in India and America; and her fleets and armies were defeated and destroyed wherever they ventured to encounter the British thunder. It was at this crisis that France endeavoured to prop her drooping strength by an alliance with Spain; and secret measures were taken by the French and Spanish courts for concluding a *family compact*, by which it was proposed that they should treat as a common enemy, every power that made an attack either upon the one or the other.

The secrecy with which this transaction was conducted did not elude the vigilance of Mr. Pitt: and with that vigour which characterised all his measures, he determined to strike the first blow; and not to wait supinely till it suited the Spaniards to make open declarations of hostility against his country. He proposed in council to intercept and cap-

ture the Spanish *plate* fleet which was then at sea ; and which if it arrived safe in port, would supply our treacherous ally with the means to which she looked for furnishing support to our declared and most inveterate enemy. This bold proposition did not meet with the sanction of his brethren in the cabinet ; who condemned it as an unjustifiable aggression on a power with which we were then in the relations of peace and amity. Mr. Pitt, unshaken in his conviction of the hostile intentions of Spain, and unable to carry into effect the measures which he considered as necessary for the national safety, determined to resign his office. “I was called to the administration of public affairs,” said this high spirited statesman, “by the voice of the people ; to them I have always considered myself as accountable for my conduct : I cannot, therefore, remain in a situation which makes me responsible for measures I am no longer permitted to guide.”

It is believed that Mr. Pitt expected to be requested by his majesty to relinquish his resolution of retiring from the adminis-

tration. But no such request was made ; and in this instance neither the expectations of Mr. Pitt, nor the general wishes of the nation were complied with. Royal favour it was understood had now begun to flow into new channels ; and an opportunity of conferring power upon the persons then foremost in that favour, could not therefore be displeasing. The largest share of royal esteem was supposed to be bestowed upon the earl of Bute, a Scottish nobleman, who had been much about the person of the king before his accession to the throne, and had in part the charge of forming and enlightening the mind of his prince. This nobleman, however, did not immediately assume the charge of the state. The seals of office which Mr. Pitt resigned were given to the Earl of Egremont, and no other change of importance at that time took place in the administration.

The predictions of Mr. Pitt were speedily verified ; and a war with Spain almost immediately ensued on his retiring from office, which took place in 1761. This war against

the combined forces of the Bourbons was prosecuted with great vigour and success during the ensuing year ; after which it was very suddenly and unexpectedly terminated by a rather inglorious peace. The Earl of Bute had now assumed the chief direction of affairs, in consequence of the resignation of the Duke of Newcastle, whose influence at court had entirely declined. The ranks of opposition were greatly strengthened by the accession not only of Lord Chatham's friends, but of those in the Newcastle interest ; and the new minister found it impossible to obtain that cordial support and liberal supplies which were indispensable for carrying on the war. The House of Bourbon was thus saved from the ruin which seemed to impend over it ; and the peace of Paris was hastily concluded in the beginning of the year 1763.

There are few transactions which more powerfully shake the popularity of a minister than the conclusion of a peace. The terms which are obtained almost always fall short of the expectations of the people ; and if the war has been successful, they will

scarcely be satisfied with any concessions that the enemy can make. The popularity of Lord Bute had never been strong enough to oppose an effectual resistance to so rude a shock. He was considered by the people, as the chief cause of the resignation of Mr. Pitt; he was moreover a Stewart, a Scotchman, and a reputed Tory; and he was neither allowed to possess the abilities nor the patriotism, which the high office he had assumed imperiously demanded.

Whether influenced by the authority of public opinion, or wearied of a charge which he found so troublesome to manage, Lord Bute almost immediately withdrew himself from administration after the ratification of the treaty of peace. But although some new statesmen were introduced into office, and joined with Lord Egremont, in the ostensible management of affairs, it was the prevailing opinion of the people, that Lord Bute was still the principal director of the machine of government; and the odium of unpopular measures chiefly fell upon him as the secret prompter by whom they were de-

vised. This opinion continued to prevail during the successive changes of administration which took place for many years after the resignation of Lord Bute; and whether Lord Egremont, the Duke of Grafton, or Lord North, sat at the helm of affairs, still it was believed by the nation that Lord Bute, was the state pilot by whom the vessel was conducted.

If this be the case his lordship had to answer for a greater number of political blunders, and a more absurd, harassing, and unpopular system of policy, than was perhaps ever carried into effect by any English minister of state. But let us not be so uncandid as to impute to one man the errors and public calamities of this eventful period: sufficient will remain to answer for, when they are distributed among all their ostensible advisers; for of all the æras of our history, none is more replete with reproach and dishonour to those who enjoyed power, than the interval between the peace of Paris, and the termination of the American war in 1783.

The unpopularity of those who had driven Lord Chatham from the helm of affairs almost immediately began to shew itself in a variety of ways, and particularly through the channel of the press. One of the most formidable of the literary opponents of the new ministry was the noted Mr. Wilkes, member of parliament for Aylesbury, who became the idol of the people, on account of his undaunted opposition to the arbitrary measures of government, and his strenuous defence of popular rights. The absurd conduct of the ministry tended as much as any thing to exalt the reputation of Mr. Wilkes, and to give his proceedings an importance, which neither his abilities nor his principles entitled them to procure.

The publication of the 45th number of the North Briton was the signal of attack upon this champion of the people. In this paper the abuse against the Scots, the ministry, and the king, was so excessive as to be deemed actionable. A warrant was therefore granted, for apprehending the author, publishers, &c. of this treasonable

performance, but Mr. Wilkes's name was not mentioned, as it had not been affixed to the publication. Mr. Wilkes denied the authority of the warrant, as far as he was concerned, because his name was not expressed; and applied for his liberation by writ of *habeas corpus*; but he was nevertheless committed to the tower by order of the secretary of state. When brought to his trial at Westminster-hall, it was declared by Lord Chief Justice Pratt, and the other judges, that the warrant of a secretary of state was in no respect superior to a common justice of peace; and that Mr. Wilkes had been illegally committed, and his privilege as a member of parliament infringed. The ministry now had recourse to their adherents in parliament; they procured a vote of the house of commons, declaring that the North Briton was a false, scandalous, and seditious libel; and the 45th number was condemned to be burnt by the hands of the common hangman.

By this ill-judged proceeding the confidence of the people was withdrawn, not

only from the ministry, but from their own parliamentary representatives. The mob effectually resisted the execution of the sentence of the house of commons; the sheriff, the peace officers, and executioner, were insulted, pelted, and finally driven off the field; and the half-burnt North-Briton was snatched from the flames, and carried in triumphal procession through the streets of the city.

It would be inconsistent with the limits of this work to enter into a minute detail of the contest between the ministry, supported by the house of commons, and Mr. Wilkes, supported by a great majority of the people of London; and the particulars are too well known to render such a detail at all requisite. Suffice it to say, that Mr. Wilkes was in the end completely triumphant; and that, though expelled the house of commons, prosecuted for scandal, treason, and blasphemy, and outlawed for not appearing to defend himself; he was so steadily supported by the people, that the thunders of the executive fell upon him.

without effect. When he returned from the continent in 1768, to offer himself a candidate for a seat in the new parliament, his outlawry was reversed ; and for all his offences he was only imprisoned for twelve months, and sentenced to pay a fine of 1000*l*. Being more than ever idolized by the people, he was repeatedly chosen member for Middlesex, and as repeatedly rejected by the house of commons : he was also made an alderman of London, and a liberal subscription was raised to pay his debts.

One instance of Mr. Wilkes's public conduct deserves particular notice, as it materially contributed to establish the liberty of the press in one very important article—the regular accounts of the parliamentary debates. The ministry smarted so much by the ephemeral publications of the times, that they were desirous of restraining their licentiousness by every expedient in their power. Whenever any liberty was taken in the newspapers with the members of either house of parliament, it had become customary to complain of a breach of privilege ;

the offending printers were summoned to the bar, and not only reprov'd, but severely fined. In the year 1771, some imperfect accounts of the parliamentary proceedings were printed in the newspapers. The speaker of the house of commons, Colonel George Onslow complained of them as breaches of privilege. The printers were ordered to attend the house; but several of them proved refractory, and resisted the summons. Two of these, who were apprehended in consequence of a reward offered by parliament, being carried before the sitting alderman, Mr. Wilkes, were immediately discharged, as having been seized in direct violation of their chartered rights as citizens of London. A third offender, J. Miller, the printer of the London Evening Post, was ordered to be taken into custody by the serjeant at arms of the house of commons. When the messenger came, and insisted upon taking the printer away, a constable was sent for, as had been previously concerted with Mr. Wilkes; and by this officer of the peace both parties were

conveyed to the mansion-house, before the lord mayor and aldermen Wilkes and Oliver. The messenger was found guilty of assault and false imprisonment, and was with difficulty allowed to find bail. The house of commons were so enraged by this attack upon their authority, that, having summoned the lord mayor and alderman Oliver to give an account of their conduct; and receiving no satisfactory apology, they sent them prisoners to the tower. Mr. Wilkes having declined obeying their summons, because they had not styled him a member of parliament, they were afraid to meddle farther with him; and got rid of him by the miserable expedient of citing him to attend at their bar on the 8th of April, at the same time that they adjourned the house to the 9th.

This absurd and ineffectual exertion of privilege served to complete the disgrace into which the house of commons had fallen with the people. The imprisoned mayor and alderman were honoured with innumerable addresses and deputations, ap-

proving of their conduct in the most flattering terms ; while the conduct of parliament was reprobated by the public in very strong language. The sense of the nation was indeed so plainly expressed, and so evidently decided upon maintaining the liberty of the press, that ministers thought it prudent to drop the contest ; and from that period to the present, the debates and proceedings of parliament have been constantly and regularly printed in all the daily newspapers.

No concession could have been of more value to a free people, jealous of the encroachments which those in authority are disposed to make upon their independence. The proceedings of their parliamentary representatives being thus freely laid open to public discussion, are subjected to a certain control from public opinion. The hope of concealment is a strong motive to mean or selfish conduct ; and many deeds are perpetrated in darkness, which would be abandoned in the full light of open day. But every action, every word of a member of

parliament, is now recorded for the information of the people, and is at once brought before the impartial tribunal of public opinion. Where any sense of shame remains, this must prove a powerful check on the corrupt propensities of our legislators. It must oblige many of them to retain the semblance of patriotism; and not avowedly to abandon those principles by which they had gained the favour and support of their independent constituents. Of the value which is attached by the people to this species of political information, we may form some estimate, by the late prodigious increase of daily newspapers, which derive one of their principal attractions from the faithful report of parliamentary debates; and which have been multiplied to an astonishing degree, since the important period in question.

A more daring and fatal attack was at the same time levelled by ministry against the liberty of the press, through the channel of the courts of justice. In Lord Mansfield they found a more accommodating head of

the law, than they had met with in Mr. Justice Pratt; and the great abilities of that able jurist were but too often prostituted to serve the occasional purposes of party intrigue. It was he who first promulgated the monstrous doctrine that *truth itself may be a libel*; and it was he who endeavoured to wrest from the hands of jurors the privilege of judging of the criminality of libellous publications; and who wished to limit their province to the decision of the mere facts of writing, printing, or publishing. By this usurpation of illegal authority he was able to pass heavy sentences upon many persons who would have either escaped altogether, or escaped with a very light penalty, by the verdict of their peers.

The absurdity and illegality of this proceeding is forcibly pointed out, in the following passage of Junius's celebrated letter to Lord Mansfield:—"When you invade the province of the jury in matter of libel, you in effect attack the liberty of the press, and with a single stroke wound two of your greatest enemies. In other criminal prose-

cutions, the malice of the design is confessedly as much the subject of consideration to a jury, as the certainty of the fact. If a different doctrine prevails in the case of libels, why should it not extend to *all* criminal cases? Why not to capital offences? I see no reason, and I dare say that you will agree with me that there is no good one, why the life of the subject should be better protected against you than his liberty or property. Why should you enjoy the full power of pillory, fine, and imprisonment, and not be indulged with hanging or transportation? With your lordship's fertile genius and merciful disposition, I can conceive such an exercise of the power you have, as could hardly be aggravated by that which you have not "

The foundation upon which Lord Mansfield grounded his claim of determining the guilt of a libellous publication, was that much disputed principle of English jurisprudence, that *while the jury determines the fact, the law must be left to the judge*. This is a principle upon which judges and

juries have long held different opinions ; and Lord Mansfield was obliged to employ some management to procure the assent of his juries to the doctrine respecting libels. According to the testimony of Junius, contained in the same letter, he told the jury in Baldwin's case, that " if after all, they would take upon themselves to determine the law, *they might do it* : but they must be very sure that they determined according to law ; for it touched their consciences, and they acted at their peril." This dispute, in so far at least as it concerns libels, is at length happily terminated, by an act of the legislature in 1792, which decides that in all cases of libel, the jury should try the guilt of the writing, as well as the mere fact of publication.

In the management of public affairs the administration of this eventful period were not more fortunate than in the regulation of the internal economy of the kingdom. Actuated by the desire of increasing the revenue of the state, upon which such heavy demands had been made by a long protract-

ed warfare ; they were induced to attempt the difficult political expedient of levying contributions from the colonies in North America. Should we grant the justice of demanding aid to the revenue from those distant settlements, whose interests had been a principal cause of the war in which the mother country had been engaged ; still it must be allowed that the manner in which ministry advanced their claim, and the expedients by which they endeavoured to enforce it, were in the highest degree impolitic and unjust. No conciliatory measures were adopted : no respect was paid to the feelings or prejudices of the colonists. Taxes were imposed with the high sounding pretensions of despotic power ; and when they were either eluded or positively rejected by the colonists, the most arbitrary expedients were employed to compel them to submission. They were subjected to martial law ; they were denied the privilege of a trial in their own country, and by their own laws ; their cities were disfranchised of their privileges ; and their legislatures were rendered incapable of

discharging the functions to which they had been chosen by the free suffrages of the people.

The consequences of this absurd and oppressive system of policy were foreseen by the more enlightened portion of the inhabitants of Great Britain; and were plainly pointed out to the ministry, though without effect. It was upon this memorable occasion that the illustrious Lord Chatham again came forward to public life, after a long and honourable retirement. But the vigour of his mind, the charms of his eloquence, and the fervour of his patriotism were all exerted in vain. The ministry, with that infatuation which had ever characterized their measures, lent a deaf ear to his animated remonstrances, and rejected with disdain the plans of conciliation which his wisdom and love of his country suggested. At length, in spite of the admonitions of the most enlightened and patriotic part of the legislature, in direct opposition to the prayers of all the great trading cities in the kingdom, they resolved

to adopt the desperate expedient of obliging the refractory Americans to acquiesce in their measures by force of arms. By this tyrannical conduct the minds of the colonists were completely alienated from the mother country. They soon assumed to themselves the title of an independent republic ; and after a disastrous and disgraceful contest of eight years, Great Britain was obliged to conclude a peace with them upon their own terms, and formally to acknowledge and ratify their independence, in 1783.

During the greatest part of this unfortunate struggle, the British ministry were able to procure the assent of a majority of the legislature to all their measures ; and immense sums of money were voted by the house of commons, to be wasted in defraying the charges of military and naval expeditions, planned without wisdom and executed without ability. At length, however the eyes of the whole nation were opened. The house of commons found it impossible any longer to turn a deaf ear to the remon-

stances and petitions which poured upon them from every quarter. Converts were at length made even in the government party by the eloquent and patriotic opponents of the American war; and the ministry could no longer be protected from the execrations which their misconduct had drawn upon them from every rank of the people.

An immense number of petitions from all parts of the nation against the ruinous measures which had been so long persevered in, were appointed for consideration on the 6th of April, 1780. They were ushered in by an eloquent speech from Mr. Dunning, in which the many fruitless attempts that had been made to introduce reformation and economy into the measures of government were set forth. These, he said, had been defeated by the undue preponderance which royal influence had acquired through the artifices and intrigues of ministers; he therefore, concluded by moving, as a resolution of the house of commons, “That the influence of the crown had increased, was

increasing, and ought to be diminished." To the utter confusion of ministry this resolution was carried, after a long and violent debate; and it stands on the records of parliament as a lasting testimony of the base arts which have been resorted to by an unprincipled administration to keep possession of that temporary authority which they owed not to the affections of the people.

But the discomfiture of administration was not yet complete. Although the memorable resolution of the 6th of April was followed up by others of a similar tendency, and which were likewise carried by a majority of the commons, the ministers did not retire from their post; and were able, by various expedients, to bring back a certain portion of their adherents to their dishonoured standard. The alarming riots which about this time took place in London, and other great towns, excited by the senseless outcry against the restoration of popery, completely ingrossed the public attention; and served for a time to suspend the ardour of the ministerial opponents.

But the storm which had been lulled for a time, broke at length upon their heads with redoubled fury. A new parliament was summoned in the year 1781, in which the measures of administration were supported by a very slender, and daily decreasing majority. At length Lord North, after having repeatedly withstood the disgrace of being left in a minority of the representatives of the people, gave notice, in order to prevent a vote of censure that was preparing against him, that he was about to resign his office. Early in the year 1782 he and his colleagues withdrew from the direction of public affairs; and the event was hailed by the nation with all the exultation which could have been produced by the most glorious victory.

Let us fervently implore that our country may escape the calamity of being again entrusted, for any length of time, to the guidance of so weak, unpopular, and unprincipled an administration. So long a series of disasters, so inglorious an æra, can

scarcely be pointed out in our annals, from the first establishment of the Saxon invaders to the present hour. At the dismissal of Lord Chatham from office in 1763, we behold the British empire in the full zenith of its power, and the British character in the meridian of its glory. Scarcely have the reins of government been seized by his unworthy successors, than the honour of the British name is tarnished; faction rears her hydra head; the authority of the legislature sinks into contempt; the strong hand of power is employed, but employed in vain, to quell the murmurs of the people; the hitherto unsullied fountains of justice are corrupted, to advance the purposes of those in authority; and the privileges of the executive are abused, in support of an arbitrary administration. At length a civil war breaks out; the resources of the state are exhausted in carrying on a ruinous contest with a part of its own subjects; the hitherto victorious arms of the kingdom are covered with defeat and disaster; and the contest

terminates in the dismemberment of the empire, and the too long delayed disgrace of the ministry.

It manifestly follows, from this simple statement of facts, that the greatest calamity which can befall our country, is to be placed under the guidance of a weak and corrupt administration. Under the baleful influence of an impolitic and unprincipled set of ministers, the fairest productions of this soil of liberty are blasted. The patriotism of our legislators is lulled asleep; the independence of our elections is shaken by bribery; an undue controul pervades even the courts of justice; and every department of the constitution suffers under the debasing effects of corruption. Like a gangrene at the heart, this destructive poison palsies the vigour of every member of the body politic, and renders the whole an inert and useless mass. The voice of the people alone remains to administer a remedy for so fatal a disease. This, though it may long be contemned, will at length prevail. Ministerial intrigues have fortunately been

found impotent, when directed against the the freedom of British speech, or the licence of the British press. Britons are fully aware that this now constitutes the palladium of their liberties ; and that while there is a liberality of sentiment generally diffused through the nation, the measures of those in power must in the end be made to adapt themselves to public opinion.

This privilege has become the more truly valuable, because the acknowledged constitutional check upon the corruptness of ministry has been altogether abandoned. No ministers have been impeached for misconduct since the beginning of the reign of George I. ; and the bad success of the prosecution which was then instituted against the advisers of the treaty of Utrecht, seems to have set this watchful dragon of the constitution finally asleep. One cause of this is to be sought in the sanction which all public measures must now receive, either directly or indirectly, from parliament. The minister can now do little without a vote of the house of commons ; and it is not to be

expected that the same, or even a succeeding parliament, would voluntarily affix a stigma upon measures in which parliament itself had so remarkable a share. There is the greater reason that the people should cherish the privilege which they enjoy, of arraigning the measures of all in power, before that high, and generally most impartial tribunal, the public.

The political events, and the changes of administration which have taken place since the removal of Lord North from office, are so completely in the recollection of the public, that I shall dismiss them with a very few observations. Among the ministers who then came into power, the principal leaders of the opposition, who possessed the confidence of the people, formed a conspicuous part. Among these, Lord Shelburne, Mr. Fox, Mr. Burke, and Mr. Dunning were the most remarkable. The work of pacification was immediately begun ; but before it had made great progress, the bond of union among ministers was destroyed, by the death of the marquis of

Rockingham : and Lord Shelburne was left to complete the treaty of peace with America, and the other belligerent powers. When deserted by Mr. Fox, Mr. Burke, and others of his colleagues, he found means to attach to his interest Mr. William Pitt, second son of the illustrious Lord Chatham ; who became the leading man in administration, when the unpopularity of the articles of peace obliged Lord Shelburne to retire.

Of the long and arduous administration of this celebrated statesman I shall not attempt to give a character. For many years he was undoubtedly the minister of the people ; and his country derived important benefits from the arrangement which he introduced into its disordered finances, and the dignity with which he maintained its rights against foreign assailants. If all his public measures were not characterised by wisdom or prudence, and if he too rashly plunged the nation into the most perilous war in which it has ever been engaged ; his errors may be palliated by the arduous and unusual character of the times in which he lived.

Less apology can be made for his lavish profusion of public money ; and the indifference with which he saw the burthens of the people accumulated to an intolerable magnitude.

The short administration of Lord Sidmouth was characterised by the amiable wish of conciliating the public mind ; and the transient peace which it was his fortune to conclude with the imperious ruler of France, seems to have been prompted by the patriotic desire of alleviating the burthens of the nation. When no longer able to maintain the popularity with which his administration commenced, this unambitious statesman resigned, without a struggle, the reins of government into the hands from which he had so lately received them.

No circumstance in the public life of Mr. Pitt is so mysterious, or so little calculated to add to his glory, as his second coming into office. It is impossible to resist the inference, that the love of power had more share in prompting this resolution, and in suggesting the expedients by which it was

carried into effect, than the love of his country. But his political career was soon to be drawn to a close; and he was doomed to resign his office, with his life, at a period when his favorite measure of a continental coalition was involved in the most unlooked for disasters. Let us tread lightly over his ashes! let us reverence the political and the personal virtues of the son of Chatham! and let us not wonder, that in times of the most difficult complexion, his measures were rarely crowned with their anticipated success.

On the death of Mr. Pitt, his colleagues in office, from an avowed consciousness of inability, voluntarily withdrew from the helm of affairs; and an administration, including the leading men of all other parties in the kingdom was immediately formed. One of the most illustrious ornaments of this administration, Mr. Fox, was doomed in less than a year to share the fate of his great political opponent: and thus was the country almost at once deprived of the talents of two of its most distinguished statesmen.—

Notwithstanding the irreparable loss which the new administration had thus sustained, its measures were conducted with undiminished vigour; and a variety of the most salutary and beneficial regulations had secured it the confidence of the country, when it was fated to experience a most sudden and unexpected overthrow. The affections of his majesty were suddenly alienated from his servants; and although the obnoxious measure which had produced this alienation was relinquished, a good understanding could not be restored without concessions which the ministry deemed incompatible with their duty to the country. They were therefore dismissed from his majesty's councils, and their political opponents were entrusted with the management of public affairs.

I shall not enter into the controversy which this great political revolution has excited, farther than to state, that the advocates of the new ministry take an unfair advantage, when they attribute the dismissal of their opponents to their obstinate adhe-

rence to the measure of catholic emancipation. That measure was at once abandoned when it was found to be completely repugnant to the royal will : and the refusal of an obligation to renounce for ever all measures of a similar tendency was the sole ostensible cause of the removal of the late administration. If the conduct of that administration was acceptable to the great body of the people, and if the measures which they pursued were fitted to promote the public good, the nation will indeed have cause to regret that they were dismissed from power for refusing to grant what they considered as an unconstitutional pledge ; and that the executive authority has been entrusted to a set of men, who so lately shrunk from the charge with conscious impotence.

To what are we to ascribe this sudden alteration in the estimate which the new ministers have formed of their own abilities ? Has their political experience been so much improved since the death of Mr. Pitt, that they now feel themselves competent to dis-

charge of duties which were then too weighty for their powers? or do they not rather think that their errors may escape with greater impunity, since that watchful guardian of the constitution, whose vigilance was peculiarly directed against the political crimes of the party to which they belong, has been called away by the irresistible mandates of fate? Certainly no event is so adequate as the death of Mr. Fox to explain the confidence which the present ministers avow in their ability to direct the nation; and there is much internal probability in the doctrine, that from the moment when the country sustained that irreparable loss a plan was concerted among those who are now in power, to exclude from his majesty's councils a set of men, whose talents and patriotism could not save them from the hostility and reproach of their political opponents.

To screen themselves, however, from this obnoxious imputation, they have propagated

the monstrous doctrine that the king alone is responsible for the dismissal of the late administration. That it was a measure which flowed solely from the royal suggestion, and of which no adviser is to be found. Are we then to relinquish that invaluable maxim of our constitution, that *the King can do no wrong*? Are the affections of the subject to be alienated from the crown, and his allegiance shaken, in order that ministers may be saved from a disagreeable scrutiny; or are we not rather to hold fast by that canon of our independence, which asserts that for every public measure there is a *responsible adviser*; and that the minister who comes into power, in consequence of a resolution expressed by his royal master, becomes immediately answerable for all the consequences of that resolution? If this position be relinquished, it necessarily follows, as recently remarked by an eloquent and patriotic statesman, that “the people may be without redress, or the sovereign with-

out security:—by the constitution both are impossible.” *

But it will not be denied by the most partial advocates of the present ministers that they alone are responsible for the most ungracious stretch of prerogative that has taken place since the æra of the Revolution. —I mean the dissolution of the late parliament. To what public purpose can this be assigned but a subserviency to the convenience of those who are now in office? In order that they may have leisure and opportunity to organize a troop of obsequious adherents, and to obtain that influence in the legislature which they found they did not possess, the country must be thrown prematurely into the ferment of a general election. A parliament, which had not completed its first session, and which yet had secured the public confidence by a series of measures of unprecedented wisdom and patriotism, must be doomed to

* See Mr. Whitbread's Address to the Electors of Bedford.

instantaneous dissolution. The proposal for the better education of the poor, the reform of Scottish jurisprudence, the inquiry into the peculations and abuses of office, must all be allowed to stand still, or must be crushed in their infancy, in order that ministers may find the means of securing a majority of the commons to sanction whatever measures they may hereafter think proper to propose. Is then the privilege of a legislator of so little value that it may thus be sported with by the breath of those who bask in the sunshine of power? Are we so jealous of our property, and can we thus allow our most valuable franchises to be forcibly wrested from us? Surely ministry know that a seat in the house of commons is not often obtained without much trouble and considerable expence, and that it is little better than robbery thus violently to deprive a man of that of which he possessed himself under the belief of public good faith, and an adherence to the common practices of the constitution.

I disclaim all hostility against the present ministers: but I cannot approve of the expedients by which they have come into office; and I must unequivocally condemn this first and most extraordinary exertion of their authority, the dissolution of parliament. If their future measures are to be of a similar complexion; if they are to sacrifice to their own private convenience the wishes and interests of the people; if they are to crush opposition by the strong hand of power; if they are to discourage reform; and check all inquiry into abuses; then, indeed, shall we have occasion to deprecate the æra of their elevation. Then shall we have just cause of alarm for the safety of our rights; then may we safely declare that the principles of the constitution are attacked, and that the republic is in danger.

But let us augur a better fate to our country! Let us hope that his Majesty's counsellors will find it most expedient to pursue those measures by which our national prosperity may be truly promoted;

and that they will not spurn at the improvement of our laws, or the reformation of abuses, merely because they have been projected by their political opponents. Or if their patriotism prove insufficient to counteract their selfishness; if corruption and oppression are again to rear their gorgon forms; let us hope that our legislators will cover themselves with the armour of integrity, and oppose an effectual resistance to this fatal and petrifying influence. Let us hope that our gracious monarch will lend a willing ear to the solicitations of his faithful and affectionate people; that he will yield to the fervent wishes of a loyal and united nation; and dismiss from his councils a set of men who have forfeited the public confidence, and tampered with the affections of a generous and indulgent master.

Let not the history of the first years of the present reign be speedily forgotten. Let it be remembered that if the confidence of the king be reposed in unworthy objects, the interests of the people are sa-

crificed, and their affections forfeited. By supporting a weak or flagitious administration, the nation may be precipitated from the zenith of glory to the extreme of degradation and shame; by dismissing a minister when declared incompetent by the voice of his fellow citizens, the nation may be saved, and has already been repeatedly snatched from impending ruin. There is no error into which an amiable monarch is more liable to fall than an undue attachment to those who have procured his personal favour. The fickleness of which the great are often accused cannot certainly be praised; but there is a steadfastness in those who have power which may be infinitely more dangerous. The inflexible majesty of the oak is an object of our admiration; but it often exposes its branches to be shattered in the storm. If we examine the history of our country we shall find that attachment to favouritism has proved the ruin of more than one accomplished prince. It precipitated to an untimely end the second Edward and the

second Richard; it deprived the first James of all his popularity; and it was one of the chief causes of the dethronement and murder of his son the unfortunate Charles. It is, indeed, peculiarly galling to an independent and high minded people, to be subject to the sway of an upstart minion. In the hands of such a phantom of power, legitimate authority itself is reluctantly obeyed, and assumes the ungainly aspect of usurpation and oppression. The tyranny of a Henry VIII. or even of a Mary, was more cheerfully borne than the unprincipled encroachments of a Buckingham, or the religious austerity of a Laud. When the stream of royal favour is diffused through a mean channel, it becomes contaminated and debased; and when the flame of royal displeasure is transmitted through an impure medium, it is magnified and distorted into an insufferable glare.

The love of his people is to a British monarch at once a source of pleasure and of power. Secure in the affections of the nation, no exertion of his authority will

be questioned; deprived of this support the slightest stretch of prerogative becomes intolerable. "Happy that nation," exclaims Helvetius, "of which Gourville was able to say, their king, when he is the man of his people, is the greatest king in the world: does he wish to be more? he becomes nothing."* This saying of Gourville was repeated by Sir William Temple to Charles II. The monarch was at first offended; but, suddenly recovering himself he pressed the hand of Temple, and said: "Gourville is right; and I will strive to be the man of my people." Let us rejoice that we, at present, possess a monarch who, on manifold occasions, has proved that the welfare of his people is the object nearest to his heart; and let us trust that the love which our King bears to his

* Heureuse la nation de qui Gourville a pu dire: "son roi lorsqu' il est l'homme de son peuple, est le plus grand roi du monde: veut-il être plus? il n'est rien."

(De l'homme, sect. 6. ch. 16.)

faithful subjects will guard him against the machinations of self-interested statesmen, and enable him to penetrate through the veil which court intrigue may too often endeavour to cast before his eyes.

CONCLUSION.

THE liberty and independence which are secured to Britons by their political constitution are an inheritance which they owe to the persevering fortitude, the wisdom, and the enterprise of their ancestors. British freedom is not the production of a day; it is not a possession which has dropt from the clouds; but it is a property which has been won by much labour and many struggles; and of which the value has been proved and established by the test of long experience. It has been the genius of the British nation to resist every tyrannical and oppressive act of their rulers; and to secure, as occasions occurred, their highly prized independence from the encroachments of power, by the positive restraints of law. Hence at length arose an admirable system of political regulations, by which the power of all the

constituted authorities of the state were strictly defined ; and their tendency to infringe the liberties of the people was guarded against by a series of appropriate checks.

Previous to the establishment of the British Constitution there is no example in the history of mankind of a government of which it was the aim to diffuse the enjoyment of liberty through a multitude of people, spread over a wide extent of territory. In the ancient republics of Greece and Rome, political freedom, so far as it was secured by positive laws, was enjoyed only by the inhabitants of a single city, and in the remaining territory of the state, the most oppressive slavery was generally enforced. Those states of modern Italy which were called republics, were of very inconsiderable extent ; and bestowed very unequal privileges upon their citizens. The same was true of the Swiss Cantons ; and of the United Provinces of the Netherlands ; for notwithstanding the confederacy by which these were connect-

ed, every particular province, and even every considerable town, was governed by regulations peculiar to itself. But it is the object of the constitution of Great Britain to diffuse liberty and equal rights throughout the whole mass of the British people. It avows no distinction between the inhabitants of the capital and those of the provinces; but extends its protection and its privileges to the nearest and the most remote, the richest and the poorest, the greatest and the humblest, in a just and equitable proportion.

From this arises one great security of British independence. The people at large are sensible of the privileges which they enjoy, and jealous of their infringement. The watch-word of liberty has been echoed in their ears from the very moment of their birth. They know that at its sound their ancestors were accustomed to rally; and to contend with unconquerable zeal for the security of that which they held more dear than life itself. The British people, therefore, are disposed by nature to keep

a jealous eye on the conduct of those in power ; and are ever ready to inquire into the abuse of public trust, and the direlection of public duty. The general diffusion of liberal information throughout the mass of the British nation, affords the best security that this powerful check will be usefully exercised. In no country is there to be found so large a proportion of liberal and enlightened citizens, as in Britain. No where else do we find so independent, and well-informed a set of landed proprietors, no where else is there so wealthy and public-spirited a mercantile body ; and no where else are the farmers, labourers, and mechanics on so respectable a footing. This is the solid basis on which the pyramid of our government rests. This is the rich and fertile soil in which the roots of the tree of freedom are so firmly fixed, that we may confide in its withstanding the rudest shocks,

The liberality of public sentiment which is characteristic of Britain, is promoted and secured by the unrestrained freedom

of speech and writing which British subjects enjoy. In this happy country the press is open to all ; and no public censor can interpose his negative on any appeal which an individual may think fit to make to his fellow citizens. He may indeed be called to account for what he has published ; and if found guilty of treason, blasphemy, sedition, or calumny, is liable to be severely punished. But this sentence cannot be passed upon him without the verdict of his peers ; and is only a salutary check which every government ought to set upon absolute licentiousness. It is absurd then to ask, as has been done by De Lolme and others, by what positive law is the liberty of the British press secured ? The liberty of the press evidently consists in this, that there is no examination of writings previous to their being published ; and that by the law of the land the public is constituted the only judge and censor of all writings directed to itself.

The practical benefit of our unrestrained press is evinced in the prodigious mass

of periodical information which almost daily issues from it. To enumerate the newspapers, magazines, reviews, literary journals, and other ephemeral publications which are now brought before the British public would be a laborious and a tedious task. The effect of these in diffusing information through the great body of the people is beyond calculation. Their number proves that their circulation is immense ; and their price adapts them to the finances of almost every class of the people. It cannot indeed be said of a great proportion of these periodical productions, that they are calculated to give a profound and accurate notion of the subjects on which they treat ; but they all tend to keep alive a spirit of inquiry and free discussion : they accustom the people to exercise their understanding, and to hear public men and public measures freely examined and criticised. The encouragement which some of our newspapers now receive, is sufficient to enable them to make the most liberal provision for obtain-

ing accurate information ; and it must have surprised every one who paid attention to the reports which were circulated at the time of the late change of ministry, to find that the statements in the public prints exactly corresponded with the explanations which were afterwards officially communicated to the legislature. On that memorable occasion we found the members both of the old and the new cabinet, solicitous to make a favourable impression on the public mind, through the channel of the journals of the day ; and adopting the extraordinary resolution of communicating to the nation through such a channel, the minutes even of the privy council. Whatever we may think of the wisdom or expediency of this measure, it serves at any rate to establish the high respect which ministers pay to public opinion ; and the benefits which the people of Britain derive from a free press.

This liberality and independence of public opinion, thus freely expressed, I conceive to operate as a powerful check against the abuse

of certain privileges which the British constitution recognizes, and for which it has provided no effectual legal controul. Of these the most dangerous is the influence which the ministers of the crown now possess over the different branches of the legislature, in consequence of their extensive patronage and command of public money. Against the undue exercise of this influence there at present exists no adequate constitutional check; for the impeachment of ministers, like the royal *veto*, has become a dead letter of the constitution. Could we obtain that parliamentary reform which has been so often projected, by which the burghs, emphatically called *rotten*, would be deprived of a franchise which they so shamefully abuse; and the members of the house of commons would become in reality what at present many of them are but in name, the representatives of the people:—could we at the same time procure some limitation of the power which the crown possesses of increasing the number of the peers at pleasure; and of pronouncing an instantaneous sentence of dissolution on parlia-

ment; then we might hope that our legislators would spurn at the overtures of ministerial favour; that they would employ their talents in advancing the welfare of their country; and be more flattered by obtaining the applause of the people, than the smiles of the court.

But constituted as things are at present, it becomes the public to be no less vigilant of the conduct of their legislators, than watchful of the excesses of the executive authority. If arbitrary measures are adopted by government, it is no alleviation to the people that they receive the sanction of a house of commons; and since the system of influence has been carried into effect we ought to be as jealous of the privileges of the legislature, as of the prerogative of the crown. A system of tyranny, concealed by the cloak of constitutional law, is more dangerous, because less suspected than an avowed despotism. The assassin who stabs you in the dark is not less formidable than the bravo who attempts your life in open day. It becomes the

people to take care, that while the forms of liberty remain, its essence does not entirely evaporate; and that the constitution does not sink into a mere *caput mortuum*, a vapid mass of dregs, from which the animating spirit has been allowed to escape.

If the people are vigilant, and scruple not to claim those rights with which the constitution has invested them, a prudent minister will be cautious how he pushes to extremity the prerogatives which yet remain without dispute to the crown. He will recollect that excessive stretches of prerogative have in this country been invariably followed by the enactment of constitutional checks to remedy the grievance; and he will be careful of rousing that restless ardour of the British people, which, in former times, produced the *Magna Charta*, the *Petition of Right*, and the *Act of Settlement*. If prerogative and privilege be exercised with moderation, they will be allowed to pass unquestioned: but if they become oppressive, the desire to

restrict them will assuredly be excited. While a wen can be kept kept down by palliatives, its inconvenience is little felt; but if it becomes unweildy, recourse must be had to the incision-knife, or searing-iron.

Let every inhabitant of Britain recollect, that, as far as his abilities enable him, he is constituted by birthright a guardian of British independence, and an assertor of the integrity of the British Constitution. Our laws and liberty have been earned by the people, and by the people they must be defended. If the people are true to themselves, no minister will dare to attack their privileges; but if they become supine, and callous to the encroachments of those who are possessed of power, the cause of liberty is lost, and the barriers of the constitution are overthrown.

Let us then be vigilant in detecting, and zealous in bringing to shame the base machinations of the enemies of our independence; and let us not lose that reputation which the arduous struggles of ages

have acquired to our nation. Let us shew that we still are what a liberal Frenchman pronounced us to be in the last century, a people happy above all nations in the benefits flowing from our religion, our commerce, and our liberty. “ *C’est le peuple du monde,*” says the philosophical Montesquieu, speaking of the English nation, “ *qui a le mieux sçu se prévaloir à la fois de ces trois grandes choses, la religion, le commerce, & la liberté.*”

THE END.

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